

Ruins of Dresden, Germany, after mass-bombing by over 3,000 heavy bombers during raids on February 13, 14, and 15, 1945. The city was not a military objective. Picture shows complete ruin of the famous Altstadt. At right is pyre on which corpses of victims were burned in batches of about 500 each, over a period of several weeks.

ADVANCE TO BARBARISM

How the Reversion to Barbarism in Warfare and War-Trials
Menaces Our Future

By
F. J. P. Veale
"

Foreword

by
The Very Rev. William Ralph Inge
Dean of St. Pauls

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To
The Right Hon. Lord Hankey
and
Hon. Edward L. van Roden

And those other English and American jurists and publicists who have led in preserving the great traditions of Anglo-American justice and legality by exposing the menace of war-crimes trials to sound jurisprudence and human security.

FOREWORD

By

THE VERY REV. WILLIAM RALPH INGE

Dean of St. Pauls

I am glad that a new edition of *Advance to Barbarism* is called for. In this book, first published in England in 1948 under the *nom de plume* "A Jurist," the author, Mr. F. J. P. Veale said, and said very well, what needed to be said by someone, and, we may add, what in 1948 in most countries nobody would have been allowed to say.

I disliked the Nürnberg Trials for three reasons: First, trials of the vanquished by the victors are never satisfactory and are generally unfair. Secondly, the execution of the political and military leaders of a beaten side by the victors sets a most dangerous precedent. The Germans were certainly guilty of "crimes against humanity"; but war is not a humane business and it would always be possible for the victors in any war to find enough examples of atrocities to justify vindictive punishments. After the next war, if there is one, trials and hangings will follow as a matter of course. We may go further. One of the indictments of the German leaders was not that they waged war inhumanly, but that they made war aggressively. They did; they desired large annexations of territory in the East. But have we not heard of other nations who have acquired extensive empires without consulting the wishes of the inhabitants? Thirdly, one of the judges—Russia—ought certainly to have been in the dock and not on the bench.

The main object of *Advance to Barbarism* is to call attention to the terrible retrogression of civilized humanity towards the worst cruelties of barbarians. The so-called Wars of Religion were sometimes savage; but in the eighteenth century it was possible to talk of civilized warfare, in which certain humane conventions were observed. Gibbon notices this advance in decent behavior with complacency. A writer in the eighteenth century might reasonably speak of war as a relic of barbarism

which might soon be abolished altogether. The Napoleonic wars, except the guerilla fighting in Spain, were not fertile in atrocities; the decadence came later.

I comforted myself at one time by thinking that these horrors were confined to three nations, Germany, Spain and Russia. Nothing can be said to extenuate the excesses practiced by the Germans. The only fair questions were, who were the culprits? and who ought to be the judges? It is not usual to hang officers for obeying cruel orders. The citizens in a police state in abdicating their rights as men have ceased to admit the duty of obeying conscience. As for Spain, it is high time to resume friendly relations with a noble people. But it must be admitted that there is a strain of cruelty in the Spanish character. In the country of the Inquisition and the bullring, civil war was not likely to be gentle. In speaking of Russia, one cannot do better than quote what Amiel, whose perspicacity is never at fault, wrote as early as 1856: "The harsh gifts of fate have left their stamp on the race of the Muscovites. A certain sombre obstinacy, a sort of primitive ferocity, a background of savage harshness, which under the sway of circumstances might become implacable and even ruthless, a coldly indomitable force that would rather wreck the world than yield, the indestructible instinct of the barbarian horde still persisting in a half-civilized nation. . . . What terrible masters would the Russians be if ever they should spread the might of their rule over the southern countries! A polar despotism, a tyranny such as the world has not yet known, silent as the darkness, keen as ice, unfeeling as bronze, a slavery without compensation or relief."

Perhaps in times to come, not so far distant, it may not be so readily forgotten that this was the enemy against whom the Germans fought.

But are there only three culprits, two of whom may plead some excuse? What of the destruction of Hiroshima by the Americans, of Dresden by the British, when the war was practically over? It is not pleasant to think of these things.

We must not speak too positively of retrogression. There was another side to European humanity before the insanity of nationalism. In dealing with "inferior races" the record was not good. The Irish have not forgotten the Tudors and Oliver Cromwell. Or listen to this horrible extract from the *Daily Journal* of March 1737: "They write from Antigua that they

continued executing the Negroes concerned in the plot to murder all the inhabitants of the island; sixty-nine had been executed, of whom five had been broken on the wheel, six were hung upon gibbets and starved to death, of whom one lived nine nights and eight days and fifty-eight were chained to stakes and burnt!" Or think of the tortures inflicted on the assailants of Louis XV, which were gleefully witnessed by at least one English gentleman. Our ancestors were not all saints.

Some of us hope now that war has been divested of all romance and chivalry, it may soon go the way of cannibalism and human sacrifice. It is a matter of life or death for civilization.

PREFACE

The first edition of *Advance to Barbarism* was published in England in 1948. At that time, it seemed wise for me to use the *nom de plume* of "A Jurist." My viewpoint was that of a lawyer and a student of history with a lifelong interest in the cause of peace and international justice.

Advance to Barbarism was the first book published in England which dealt at any length with the responsibility for the indiscriminate mass-bombing of civilians and other recent barbarities in warfare and with the war-crimes trials at Nürnberg and elsewhere. Previously, it had been universally assumed that Hitler was solely responsible for the air *Blitz* over England and the natural retaliation for this by the Allies over the Continent. The Nürnberg Trials had generally been hailed with popular acclamation as a noble, novel and original departure in international jurisprudence and humanitarianism. It was thought that they had resulted in the establishment of a new and splendid code of international justice and in the creation of universal principles of a warm and robust humanitarianism.

Publication of *Advance to Barbarism* took place despite the existence in England in 1948 of an "Iron Curtain of Discreet Silence" in regard to the barbarization of warfare during the Second World War and the challenge to sound judicial principles in the war-crimes trials. This curtain had been erected around the above subjects after it had been revealed that it was Britain which had launched the bombing of civilian centers, and after attempts to justify trials in which the accuser also sat in judgment on his own charges had only served to emphasize how utterly contrary such trials were to both traditional justice and ordinary common sense.

In this book, mention was also made for the first time of some very important other matters that had been likewise withdrawn behind this Iron Curtain of Discreet Silence. Such were: (1) the liquidation of 15,000 Polish officers and leaders by the Soviet authorities in the Katyn Forest and elsewhere in 1940 (a deed which the American Congress and the United Nations did not investigate until late in 1952); (2) the fact that the origin of the war-crimes trials can be traced to the proposal of

Stalin at the Teheran Conference in 1943 that a similar liquidation of 50,000 German officers and technicians should take place at the end of the War; (3) the terrible fate that had overtaken the ten to fifteen million (mostly German) inhabitants of Pomerania, East Prussia, Silesia and the Sudetenland who, after an unprecedented orgy of murder, rape and spoliation, had been expelled penniless, shivering and starving from the homelands their ancestors had occupied for many centuries; (4) the revelations by Mr. J. M. Spaight and Air Marshal Sir Arthur Harris relative to the "brain wave" of 1936 in the British Air Ministry and the latter's "Splendid Decision" of May 11, 1940, which together initiated the indiscriminate bombing of civilian persons and property; and (5) the frightful and militarily utterly pointless mass air raids on the refugees and citizens in Dresden in the middle of February, 1945.

The book was given high praise and commendation by virtually every reviewer and critic who saw fit to mention it at all. Samples of these comments are given on the paper jacket of the book in the present American edition. By those who ventured to express any opinion whatever on the book, the truth of its statements was not denied; its arguments were not refuted; and its conclusions were not rejected. Nevertheless, in accordance with the tenets of the Iron Curtain of Discreet Silence, or what Dr. Harry Elmer Barnes has called in its American expression "The Historical Blackout," the bulk of the British press, newspaper and periodical alike, rigidly ignored the appearance of *Advance to Barbarism*. Not one London newspaper with a nation-wide circulation reviewed the book at all.

When, shortly after the appearance of the English edition in 1948, the great English churchman, Dean Inge, declared that "in this book is well said what it was high time was said by someone," he was expressing the very reverse of the official view. This was that in this book was unwisely and presumptuously said what was, for the time being, inexpedient to be said by anyone. It had been tacitly agreed that this attitude of discreet silence on these forbidden subjects must be maintained until such subjects could be safely dismissed from the public mind as "ancient history."

In the period since 1948, especially as a result of the headlong rush of recent events, growing Russophobia, the cold war, the drive to rearm Germany, and the outbreak of the Korean

War, the events of the Second World War have in a sense already been rendered "ancient history." Consequently, the Iron Curtain of Discreet Silence has either been quietly removed or has been boldly pierced by some of the most distinguished British publicists and jurists with notable results. Thus, the release of Mamoru Shigemitsu, at the time of Japan's entry into the war Japanese ambassador in London, from a sentence of seven years imprisonment for the newly-created crime of having waged a war of aggression, was a direct result of the masterly disclosure of the facts of the case contained in Lord Hankey's authoritative book, *Politics: Trials and Errors*, published in 1950. The influence of this book and several other notably Montgomery Belgium's *Victors' Justice*, R. T. Paget *Manstein*, and Viscount Maugham's *U.N.O. and War Crime* brought it about that, by the end of 1952, the disturbing facts and thoughts, first set forth in *Advance to Barbarism*, have gradually come to be more freely and openly discussed by the liberal British public.

American friends of truth, logic and peace who read the preliminary English edition besought me to prepare an edition for publication in the United States. I was glad to do so, and the present book is the product of this request. It has been greatly improved in content, notably enlarged in size, and brought down to date to include such important events since 1948 as the Kesselring, von Manstein and other belated war crimes trials, the publication of George Orwell's epoch-making book, *Nineteen Eighty-Four*, the effect of the changed atmosphere toward Soviet Russia upon the attitude toward German and Japanese war-criminals, and the impact of the Korean War in awakening the American and British public to the potentially terrifying implications of the war-crimes trials.

The chickens that hatched out of the eggs of the wartime and post-war military and juristic barbarities have already come home to roost. The horrors of Korean air warfare have surpassed those of the Second World War in proportion to the forces engaged. In an article in *Look Magazine*, December 30, 1952, Mr. Justice William O. Douglas of the United States Supreme Court wrote, after a visit to Korea in the summer of 1952: "I had seen the war-battered cities of Europe; but I had not seen devastation until I saw Korea. Cities like Seoul are badly mangled; but a host of towns and villages, like Chorwon on the base of the Iron Triangle, are completely obliterated

Bridges, railroads, dams are blasted Misery, disease, pain and suffering, starvation—these are all compounded beyond comprehension." Even more disturbing to many than this appalling picture was the report that the Chinese Reds threatened to impose the "universal principles of justice established at Nürnberg" on the prisoners they captured from the forces of the United Nations in Korea.

In conclusion, it may be desirable to settle one issue, once and for all, before the reader proceeds to the text of this book. Lest any readers, for reasons not readily apparent to the author, get the impression that I am ignorant of Nazi atrocities, or condone or minimize them, let me say, once and for all, that I am fully aware of the nature and extent of the abominable acts committed by the Nazis both before and after September, 1939. As a libertarian and a friend of peace, I have always viewed them with horror, and at no place in this book is there even the implication that I condone them. Nor do I have any personal sympathy for those who were punished for proved serious offenses against humanity.

A leading American publicist who read the proofs of this book and was in general highly appreciative of its tone and content observed: "It is the feeling of utter anger and disgust at Nazi crimes which emotionally tends to make men accept the Nürnberg trials as somehow an expression of justice. The book will be criticized because it so largely ignores this aspect of the war."

This objection can be answered very quickly and adequately. The subject of Nazi brutality and crimes against humanity has already been covered, even to the point of gross exaggeration, in billions of words of newspaper material and in many millions of words in the periodical press and in books dealing with this material. There is surely no need for another book on this subject. But there is a crying and vital need for a book which makes it clear how the *emotional* reactions to these Nazi outrages have led to acts and policies of much the same nature, as repugnant to decent sentiments of humanity, and pregnant with the dire possibility of results in the future far more horrible and destructive than the worst acts of either the Nazis or their enemies in the past.

My objections to the post-war trials are, thus, not founded in the slightest on ignorance or palliation of Nazi or Japanese offenses against humanity. They are based on respect for the

great traditions of Anglo-American legality and justice and on solicitude for the well-being of Western civilization in the years which lie ahead for us and our children.

Trials revolving around arbitrary *ex post facto* crimes, held by tribunals with no sound legal jurisdiction, in which the same nations serve as both prosecutors and the judges of their charges, are an affront to the very fundamentals of sound jurisprudence, either domestic or international. As I have pointed out in the book, it was desirable that outstanding offenders against well-established international laws and usages should be tried, provided the judges were drawn from neutral nations, the evidence was fairly presented, and the action was brought against violators of law and human decency on both sides, victors and vanquished.

This book contains no reflections, expressed or implied, on the good faith and integrity of those non-Russians who undertook the task of dispensing justice subject to the conditions imposed by the Charter attached to the London Agreement, conditions which arbitrarily restricted their jurisdiction to crimes committed "in the interests of the Axis countries" and deprived the accused of the protection of the rules of evidence. Neither their good faith and integrity in carrying out this task nor the patriotic motives which prompted them to undertake it are called in question. What is open to doubt is their wisdom in consenting in the first place to undertake a task manifestly so impossible. Should it not have been obvious from the outset that such appalling miscarriages of justice as the conviction of Admiral Raeder and such undignified evasions of the issues as that which took place in regard to the Katyn Forest Massacre charges would follow naturally and inevitably from the conditions laid down by the Charter?

When the complete and final verdict of history is turned in on the years following 1939, it will be evident that the brutality, inhumanity and illegality were about equally distributed between the Nazis and their opponents. Indeed, this fact is already well-established. Surely the most extreme summation of Nazi abominations could be matched by the atrocities committed by the Russians, as Dean Inge well points out in the Foreword to this book. Indeed, the Germans done to death as prisoners of war or expellees by the Russians, Poles and Czechs outnumbered the minorities liquidated by the Nazis. The Morgenthau Plan for defeated Germany, accepted at Quebec in

September, 1944, envisaged and involved decimation and suffering far more prolonged and extensive than that produced by the Nazi campaign of exterminating racial minorities. The fact that the prosecution did not come into court with clean hands will appear to future commentators on the post-war trials to be as serious a condemnation of them as the formal illegality of their background and procedure.

But the most serious criticism of the post-war trials is that, unless they are repudiated, they will have removed all restraints from the most brutal and ruthless conduct of warfare in the future. If the leaders of defeated nations or coalitions are to be automatically liquidated, with or without mock-trials, at the end of hostilities, then these leaders must not overlook or fail to exploit every conceivable instrument of destruction and terrorization which modern science, physical and psychological, can put at the disposal of those who face extermination if they fail. Future world wars, waged with our ever more destructive agencies of warfare and governed by counsels of ruthless desperation, can only mean the extinction of our civilization. The conditions in Korea which Justice Douglas so trenchantly describes will be spread over the whole face of the planet.

F. J. P. Veale

Brighton, England
January 1, 1953

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The common laws of war—those maxims of humanity, moderation and honor—ought to be observed by both parties in any civil war. Should the sovereign conceive that he has a right to hang his prisoners as rebels, the opposite party will make reprisals; . . . should he burn and ravage, they will follow his example; the war will become cruel, horrible, and every day more destructive to the nation.

Emeric de Vattel

Aachen is the biggest German town in our hands. It is the most exhilarating sight I have seen for years. The town of some 170,000 inhabitants has not now a single habitable house left in it. I have never seen such destruction . . . Ten thousand inhabitants are living like rats in cellars among the debris. One air raid alone caused 3,000 civilian deaths . . . And it is good to think that what happened in Aachen happened, and goes on happening, in almost every German town.

Report of British war correspondent, printed in London newspaper, Christmas Eve, 1944.

The effect on the military men present, as the noose was slipped about the neck of spare, soldierly Field Marshal Keitel, was terrific. It was the first time that a military leader had ever been convicted as a criminal. Formerly, high-ranking officers of a defeated nation had been allowed to seek sanctuary in some neutral country. "There, but for the grace of God, go I," was written upon the face of each officer witness. A precedent was being set.

Report of eye-witness of Nürnberg executions.
Stag Magazine, February, 1952.

INTRODUCTION

Nor infrequently what later prove to be the most significant events of an era take place unrecognized as such at the time.

This is particularly the case in an age like the present, when far-reaching changes and developments of the most spectacular kind follow each other in quick succession. It is no wonder that equally important but unspectacular changes and developments are likely at first to be overlooked.

The conquest of the air, the introduction of wireless transmission, the splitting of the atom and the subsequent destruction of a great city with an atom bomb, are developments which could hardly fail to win public attention. Similarly, such political developments as the establishment of a great communist state embodying Lenin's dreams of social reconstruction which has come (to quote General Smuts) to dominate Europe and a great part of Asia; the transformation of Central Europe into a vast distressed area; the gradual dissolution of the British Empire, and the inheritance of Britain's financial and naval supremacy by the United States, are not events which could take place without attracting attention.

In fact, so many events have taken place during this century which, from one point or another, can reasonably be described as "epoch-making" that the use of the description "epoch-making" has become a habit. Thus, when, after the end of hostilities in 1945, there was held what was officially styled a trial of the political and military leaders of the vanquished, the public was assured that this development was "epoch-making." It was announced proudly that new principles of justice had been discovered—by the simple process of reversing what had hitherto been accepted as an elementary principle of law—and it was declared that the loudspeaker equipment with which the Court was fitted was an outstanding triumph of modern electrical engineering. The tedium and length of the proceedings which were certainly unparalleled, aided perhaps by some subconscious misgivings, soon exhausted the public interest and little significance was attached to the announcement made on October 16, 1946, that, as everyone had assumed would happen

from the start, among the distinguished prisoners of war hanged early that day had been Field Marshal Wilhelm Keitel, Chief of the German Supreme Command.

Although for quite other reasons than those popularly accepted, the hanging of this eminent soldier for professional acts in the service of his country may fairly be described as epoch-making. It marked the culmination of a movement which had first become perceptible only about thirty years before, a movement noteworthy because it was a complete reversal of the trend which, with periodic fluctuations, had been going on since prehistoric times. Naturally, at first, it had been dismissed as another transient fluctuation, but, gathering strength with amazing speed, this reverse movement culminated on October 16, 1946, in the hanging of Field Marshal Keitel amid the ruins of what had shortly before been the beautiful medieval city of Nürnberg.

To the trial itself a number of adjectives can fitly be applied, but "epoch-making" is certainly not among them. To lawyers it came as no surprise that the accusers in a case should find their own charges upheld. Although the application of this discovery to litigation generally would unquestionably abolish the glorious uncertainty of the law, such an innovation is hardly likely to find favor in legal circles. According to long established conceptions, a trial by the victors of the vanquished must *per se* be unsatisfactory. Even the gratitude of historians for the enormous quantity of information which the trial brought to light will be tempered by the thought of the overwhelming temptation to perjury and the unparalleled facilities for forgery which were thus provided.

Except to students of the customs, practices, beliefs, and ideas of primitive man, the details of this unique trial need not concern anyone who values his time. Its real importance arises from the fact that it provides the most spectacular symptom of a development which had begun only some thirty years before and which, in this short space of time, has completely transformed the whole character of warfare and of international relations generally.

What is so remarkable about this development is that it ran entirely contrary to the previous trend of events. Through the ages, down to 1914, with certain temporary fluctuations, manners generally had become steadily milder and in warfare, in particular, the methods of primitive savagery had become

gradually modified by an increasing collection of restriction and restraints. Compliance with these restrictions and restraint is commonly held to mark the distinction between savage and civilized warfare. In savage warfare, there are no rules, and the enemy may be injured in any way physically possible. In civilized warfare certain restraints have long been recognized with relation to wounded and prisoners, while hostilities are directed only against the enemy combatant forces. In this way a code of conduct was gradually established which became formally recognized by all civilized countries.

A history of warfare, written in 1913, would be a simple record of this slow and fluctuating, but on the whole steady progress. The warrior Kings of Assyria went forth to battle against their neighbors, first in one direction and then in the other, as the fancy seized them: they burned down cities, massacred their inhabitants, tortured prisoners and deported an enslaved whole populations—including the carrying out of mass deportations on a smaller scale but with a brutality equal to those recently carried out by the Russian, Czech and Polish Governments. In the Middle Ages, wars were only commenced under some claim of right, however shadowy; occasionally there were burnings and massacres, but generally safety could be purchased by a ransom; prisoners, if of noble blood, were treated with elaborate courtesy even if the rank and file were often massacred. During the greater part of the eighteenth century and throughout the nineteenth, a rigid code of conduct was generally observed by the armed forces of the European countries, or, at least, when disregarded, was paid the tribute of indignant denials. Civilians had little reason to fear for their lives or their property unless they happened to be so unfortunate as to live on a spot selected as a battlefield. Defeat in warfare entailed neither ruin nor slavery but mainly an increase in taxation to pay the war indemnity.

How has it come about that within a little over three decades it has become an accepted commonplace that the readiest way of winning a war is to ignore altogether the enemy's armed forces and to paralyze the enemy civilian population by devastating and systematic attacks from the air? The fate of Field Marshal Keitel establishes a precedent which no one can doubt will be faithfully followed in the case of all future professional soldiers of high rank who find themselves on the losing side. The principle has become accepted that the property of civilian

whose country has been defeated in war automatically vests in the conquerors. Prisoners of war, if not sufficiently distinguished to merit trial and execution, face the prospect of working as slaves for their conquerors for an indefinite period.

Such a sudden and complete reversal of the process of gradual amelioration of warfare which had been going on for more than two thousand years surely calls for some explanation. Is not, for once, the overworked description of "epoch-making" merited? At the Nürnberg proceedings, which ended with the death of Field Marshal Keitel and the surviving members of the German Government under whose orders he had acted as a professional soldier, it was repeatedly stressed that the procedure being followed was entirely novel. But however just or unjust the proceedings and verdict in this particular instance may have been, adoption of the principle involved would lead to a reversion to what was ancient practice. In primitive times prisoners of war were killed as a matter of course and, for preference, captured enemy leaders. It has always been considered a great step forward when the custom grew up of not killing prisoners of war but of merely detaining them until the end of hostilities. The killing of Field Marshal Keitel was not, therefore, an innovation but was in effect a reversion to primitive practice. His trial disclosed no sensational discoveries in jurisprudence. Whether, in fact, the Field Marshal was guilty of the charges made against him is of no far-reaching importance. What is important is that he was condemned when a prisoner of war and the Court which condemned him was composed of representatives of the victorious Powers against which he had been fighting as a professional soldier.

The so-called Nürnberg trials are only one symptom, if the most obvious one, of this sudden and complete reversal of the process which had been going on steadily through the ages of ameliorating the crudities and barbarities of primitive warfare. At the beginning of this century the gradual amelioration of the conditions of warfare, which had been in process for several thousand years, suddenly ceased for no very obvious cause, and the conditions of warfare reverted within the space of fifty years to their original pristine simplicity and barbarism. This would be sufficiently remarkable were it combined with an obvious harshening of manners generally. In the Dark Ages, warfare in Europe was conducted with the stark brutality of a

thousand years before, but this was not an isolated phenomenon. Manners, generally, became brutalized.

There is no sign—at present at any rate—of any such general reversion in civilian mores to the standards of earlier times. On the contrary, in civil life a greater regard is paid to the treatment of criminals, of the sick, of the poor, of children and of animals than ever before in history. Public opinion is quickly aroused by cruelty. The conditions of child labor in mines and factories which existed as recently as early Victorian times would not now be tolerated—or, if tolerated, would only be tolerated if the children belonged to a nation which had been on the losing side in a war and must not, as such, be pampered. Along with an indifference in hostilities to wholesale slaughter, without regard to age or sex, there flourishes an increasing respect for the sanctity of human life—the execution of the most notorious and callous of murderers never fails to start an anxious discussion as to the moral justification of capital punishment.

Perhaps this strange contrast is best seen with regard to the attitude toward animals which, down to very recent times, were treated in all countries with amazing callousness. Thus, Paul Hentzner, a German traveller who visited London in 1598, records that among the pastimes offered to visitors to Queen Elizabeth's capital, was the spectacle of a blinded bear tied to a post and whipped to death by young boys. He merely records this manner of spending an afternoon without comment, and we may be justified in deducing, therefore, that similar spectacles could be witnessed in his home town in the Rhinelands, and probably throughout Europe. It did not also strike him as strange that the same public which could enjoy this spectacle, could also provide audiences for Shakespeare's plays. Bear-baiting, bull-baiting, and cock-fighting continued to flourish in England down to the beginning of Queen Victoria's reign.

For reasons into which we need not inquire here, manners in England suffered a general decline during the reigns of the first two Georges, as the pictures of Hogarth bear witness. Yet this decline, curiously enough, was concurrent with a remarkable improvement in the conduct of warfare as compared with its conduct down to the end of the preceding century. By 1770, this improvement had proceeded so far that the Comte de Guibert was moved to write as follows:

Today the whole of Europe is civilized. Wars have become less cruel. Save in combat no blood is shed; prisoners are respected; towns are no more destroyed; the countryside is no more ravaged; conquered peoples are only obliged to pay some sort of contributions which are often less than the taxes they pay to their own sovereign.

This picture of warfare will seem fantastically unreal to present-day readers until the details of an eighteenth century war, such as the Seven Years War (1756-63), are studied and then contrasted, first with the events of a war of the preceding century such as the Thirty Years War and, next, with the occurrences of the war of 1939-45. Nothing will be found in eighteenth-century warfare to be put alongside the massacres of Magdeburg or Drogheda, on the one hand, or the bombing of Dresden, on the other.

Nevertheless, manners generally could hardly be described as mild at the time the Comte de Guibert was complacently describing the conditions of contemporary warfare, as quoted above. Death by torture was still inflicted for many crimes—in particular, breaking on the wheel in France and many parts of Europe. In England, there were over two hundred capital offenses and, although death by torture was not inflicted for crimes in civilian life, discipline in both the Army and Navy was upheld by sentences of flogging of such severity that they amounted to capital sentences carried out by flogging to death.

As for the manner in which the Comte de Guibert's contemporaries dealt with high treason, reference should be made to the full details of the public execution of Damiens in Paris, in 1757, and of Anckarström in Stockholm, in 1792. It is noteworthy that many fashionable persons went over from England to Paris solely to witness the gruesome end of the half-witted youth who had tried to stab Louis XV with a penknife and, presumably, they enjoyed what they saw. It may well be doubted whether many of those who rained high explosive and phosphorous bombs on the refugees crowded into Dresden on the night of February 13, 1945, could have maintained for five minutes a front seat in the Place de Grève during the execution of Damiens, in 1757. Granting that the public cutting and slicing, the red-hot pincers, the boiling oil and the tearing asunder by wild horses, was the more spectacular and, therefore, a greater strain on the nerves, the two incidents are not really comparable in horror. Furthermore, the victims in the one case—over 200,000 defenseless men, women,

and children—were guiltless of personal offense of any kind while in the other, Damiens had at least done something which he ought not to have done, albeit if only with a penknife.

Be this as it may, it is indisputable that a sudden and profound change has taken place in the conduct of warfare since the beginning of this century.

A change so sudden and profound and manifesting itself so clearly in so many different ways, must surely be the result of causes which it should be possible by investigation to discover and examine.

CHAPTER I

PRIMEVAL SIMPLICITY

HISTORY, as it is generally written, consists in the main of a simple record of an unbroken succession of wars since the days when the Assyrian Kings went forth to battle. The historical sociologist, Jacques Novicow, has estimated that, during the last three thousand years, there have been thirteen years of war to one of peace. "Between the year 1500 B.C. and the year 1860 A.D.," he writes, "more than 8,000 treaties of peace each intended to remain in force forever were concluded. The average time they remained in force is two years."

Indisputably, warfare has always been one of the most prominent features of civilized life: as the English economist, Walter Bagehot, puts it in his *Physics and Politics*, "war is the most showy fact in human history." For long the assumption remained unquestioned that war was precisely as old as mankind. In his *International Law*, the famous jurist, Sir Henry Maine, refers casually to "the universal belligerency of primitive man," and declares, clearly without fear of contradiction, "It is not peace which is natural and primitive but war."

It was not until the war of 1914-1918, the so-called War to end War, that the truth of this assumption was first challenged, in particular by the psychologist, Havelock Ellis. The life of primitive man in the remote past, Havelock Ellis argued, can best be determined from the life of the most primitive of modern races. "When Australia was first visited by Europeans," he pointed out, "war in the sense of a whole tribe taking the field against another tribe had no existence among the Australian aborigines."¹ Dr. R. L. Worrall contends in his *Footsteps of Warfare* that, until mankind began to settle in communities depending on agriculture for support, warfare was unknown. "In those days of savagery," he writes, "men and women lacked every feature of modern life including all the savageries of civilization. Only with the passing of the stone age and of primitive communism did there come the supreme savagery of war."² He pictures the sparse population of the

hunting period wandering freely through country abounding in game of every kind and dismisses as absurd the view that clashes must have occurred between the various hunting groups since no subject for conflict would exist in such conditions. There is, he points out, an entire lack of evidence of warfare in primitive times, although he admits that had warfare occurred it is difficult to imagine what evidence of it could have survived so vast a length of time.

From time to time and in certain areas, no doubt, such idyllic conditions persisted for long periods and we are at liberty to imagine that during these long periods man may have come dimly to resemble the Noble Savage of Rousseau. Thus, on the Australian continent, for tens of thousands of years mankind lived undisturbed by intrusive neighbors or probably by any major change of climate. In such static conditions, occasions for warfare would seldom if ever arise: the Australian aborigines were certainly peaceful if not noble savages, and so they remained until modern times. On the other hand in Europe, in Central Asia, and in North Africa, major changes of climate occurred during the Pleistocene Period with great frequency according to geological standards. At one period Europe enjoyed a temperate climate as far north as Lapland; southern Europe was tropical. Later began a succession of ice ages separated by mild periods lasting thousands of years. During the ice ages the climate of all Europe north of the Alps may be compared to that of Greenland at the present day. How did the hunting communities of northern Europe, during the oncoming of a glacial period, deal with the communities already occupying the lands to which they gradually withdrew as their own hunting grounds became less and less habitable? They had been accustomed, no doubt, to act summarily when, for example, they found a desirable cave already occupied by cave bears or wolves. Can it be doubted that in comparable circumstances they dealt with human obstructors by similar methods? And can it be doubted that the original inhabitants of these more habitable lands took up the natural attitude that changes of climate were no concern of theirs and that these intruders ought to have been content to die resignedly and quietly of hunger and cold in their own home lands without disturbing their neighbors? Surely, points of view so different and so irreconcilable could have only one outcome.

¹Havelock Ellis, *Selected Essays*, London: Dent and Sons, 1936, p. 195.

²R. L. Worrall, *Footsteps of Warfare*, London: Davies, 1936, p. 2.

One party had been doomed by nature to perish and each frankly preferred this fate should be suffered by the other.

Probably every major change of climate in the Stone Ages resulted in a series of minor wars—minor because in each only a few hundred individuals or less would be involved, but otherwise presenting the essential characteristics of a modern war. It is a popular delusion that man in prehistoric times was a stupid, half-animal creature altogether different from modern man. Some types of man as long ago as 30,000 years—the Cro-Magnon man who inhabited southern France in the Aurignacian Epoch—had a brain of equal or even of greater capacity to that of the average modern European. (The average cubic capacity of a Cro-Magnon skull was 1590 c.c.: that of a modern European is 1480 c.c.) From this we can deduce that, as modern European brains have proved capable of grasping the fact that it is less trouble to dismantle and remove to one's own country a factory belonging to a conquered people than to build a factory for one's self, it should not have been beyond a Cro-Magnon brain to have grasped the fact that it was less laborious to appropriate the stone axe of a vanquished enemy than to chip out a new one. By the same argument, this much vaunted achievement of modern reasoning should not even have been beyond modern man's cousins in the Stone Age, the celebrated Neanderthal species of the human race which, in spite of a shambling gait, great beetling ape-like eye-brow ridges and massive chinless jaws, possessed a capacious brain of a far from simple type. In fact, certain specimens of Neanderthal man possessed brains above the average in size—the skull found at La Chapelle had a capacity of over 1600 c.c., at least 120 c.c. above the modern average, according to Sir Arthur Keith.³ We are justified in believing, therefore, that the La Chapelle man, in spite of his unprepossessing simian appearance, would have been fully capable of grasping all the motives for a modern war, of conducting warfare in entirely the contemporary spirit, so far as his limited resources permitted, and of dealing with a defeated enemy in accordance with the same principles and with precisely the same objects in view as were applied to a defeated enemy in that Year of Grace, 1945.

³ Sir Arthur Keith, *The Antiquity of Man*, London: Williams and Norgate, 1925, Vol. I, p. 175. It is recognized, of course, that the intellectual faculties of Neanderthal man were less developed than those of modern man.

One fact relating to Neanderthal man, established beyond question but otherwise inexplicable, makes it possible to say that the first major European war took place during the Old Stone Age at a date which experts have estimated to have been approximately between thirty and fifty thousand years ago. For tens of thousands of years preceding this approximate date Neanderthal man was in occupation of a vast area stretching from Gibraltar in the West to Palestine in the East and extending southward from the great ice fields which then covered the northern half of Europe. Having been in undisturbed possession of this area for an enormous length of time, Neanderthal man disappeared, apparently rather suddenly. In strata of a later date his remains are no longer found; thereafter are found only traces of men of the same type as now occupy Europe.

What brought about the extinction of Neanderthal man will probably always remain a matter for speculation. All that is known for certain is that above a certain level all traces of his culture—known as the Mousterian—abruptly disappear and are replaced by traces of a distinct culture known as the Aurignacian. It is, of course, possible that Neanderthal man died out through some unknown natural cause so that his vacated hunting grounds were peaceably occupied by his successors, the men of the Aurignacian Epoch. Dismissing this vague possibility, Sir Arthur Keith writes: "Those who observe the fate of the aborigines of Australia and Tasmania will have no difficulty in accounting for the disappearance of *Homo neanderthalensis*."⁴

It is hard to believe, however, that the Neanderthals passively allowed themselves to be dispossessed of their means of subsistence. Through hundreds of centuries they had successfully adapted themselves to a most rigorous climate and had succeeded in the struggle for survival in competition with some of the most formidable carnivores that have ever existed—saber-tooth tigers, lions, and cave bears. To quote Sir Arthur Keith again: "Neanderthal man's skill as a flint-artist shows that his abilities were not of a low order. He had fire at his command, he buried his dead, he had a distinct and highly evolved form of culture." He was a fearless and skilful hunter of big game. He was confronted by no such superiority in

⁴ *Ibid.*, p. 136.

weapons as that which made it impossible for the aborigines of Australia to resist the firearms of the European invaders. The conclusion reached by Professor Henry Fairfield Osborn in his *Men of the Old Stone Age* is that the Aurignacian invaders "competed for a time with the Neanderthals before they dispossessed them of their principal stations and drove them out of the country or killed them in battle."⁵

There is, thus, good ground for believing that the Mousterian Period ended as a consequence of a struggle which conforms with the definition of warfare accepted by Havelock Ellis—"War is an organized attack of one community on another." The outcome of this struggle was ultimately the complete extermination of that distinct species of the human race, Neanderthal man. Regarding this grim outcome Professor Osborn observes:

In the racial replacements of savage as well as of historic peoples the men are often killed and the women spared and taken into the families of the warriors, but no evidence has thus far been found that even the Neanderthal women were spared or allowed to remain in the country, because in none of the burials of Aurignacian times is there any evidence of the crossing or admixture of the Aurignacian peoples with the Neanderthals.⁶

There is no need for us to explain the fate which overcame the Neanderthals by stressing the superior intelligence of their conquerors or by attributing to the latter the possession of more effective weapons. It seems probable that Neanderthal man lived in small, isolated communities, each community quite unconcerned with the fate and perhaps unaware of the existence of other Neanderthal communities. Each community no doubt defended itself desperately—to quote Professor Osborn—"with wooden weapons and with stone-headed dart and spear." Probably each such isolated struggle was finally decided by weight of numbers.

If the conclusions of the authorities quoted above be accepted, it becomes possible to say with confidence that there took place in Europe in the Old Stone Age, according to the experts more than thirty thousand years ago, a decisive struggle between the representatives of two distinct branches of the human race, the Neanderthals and a tribe or tribes of men similar in all physical respects to modern man. Such a struggle

⁵ H. F. Osborn, *Men of the Old Stone Age*, London: Bell and Son, 1926, p. 258.

⁶ *Ibid.*, p. 272.

would certainly merit the title of the First Great European War since its results were infinitely more momentous than the results of any of the tribal and civil wars which have occurred since in Europe—including any of the celebrated European wars of modern times.

It is probable also that some of those features of contemporary warfare which are popularly regarded as unprecedented innovations were a normal feature of warfare in the most remote times. What is now regarded as the old distinction between uniformed combatant forces and the civilian population is, judged on the scale of time by which man's history on this planet is recorded, an innovation of yesterday—a matter of a mere couple of centuries. In prehistoric warfare, every member of the whole hunting community would be equally involved with no more regard to age or sex than in warfare today. In the event of defeat, all would suffer the same fate. Often, no doubt, during hostilities the women and children left behind in a settlement were in greater danger than the able-bodied males of the community away on a hunting expedition to collect food. It would surely not have been beyond brains with 120 c.c. greater capacity than the modern average to realize the tactical, material, and psychological benefits which would result from a sudden and devastating raid on "the enemy's main centers of population."

Even a recent innovation regarded as especially without any kind of precedent may not have been lacking in the earliest warfare. In the Stone Age men lived by hunting the herds of wild horses, deer, and wild cattle then living in profusion on the great Eurasian plains which were also the prey of various carnivorous animals, such as the saber-tooth tiger and the cave bear. No doubt, these dangerous animals were bitterly hated as rivals for the available supplies of food, and feared owing to their taste for human flesh when occasion offered. Opportunities for reprisals would from time to time have occurred. We can only deduce the nature of these reprisals from what occurs at the present day in primitive lands. In parts of Indo-China, for example, the chief enemy is the tiger whose depredations are, as a rule, endured with resignation by the natives. Occasionally, however, a tiger blunders into a trap or is found overcome by old age, accident, or disease. A formal act of retribution is then staged in which the whole village community, men, women, and children, takes an enthusiastic part.

The victim is first reduced to complete helplessness by being deprived of food and is then mocked, baited to frenzy, terrified by fireworks, and finally finished off in a slow and painful manner amid general rejoicings. The same custom prevails in far-off Tibet, where the chief enemy is the wolf. The Swedish traveller, Sven Hedin, tells us that, when the herdsmen manage to catch one of the wolves who live by preying on their flocks, they first blind the victim and then beat it to death with their knouts.

By analogy we can safely assume that the men of the Stone Age acted in the same way when chance placed at their mercy so dangerous and hated a rival as the cave bear. Upon one individual animal would be inflicted a kind of symbolic punishment for all the offenses committed by the whole species to which it belonged. And, if the men of the Stone Age were accustomed to deal with animal enemies in this way, is it not probable that, on occasion, they dealt with particularly feared and hated human enemies in the same way? It follows that, if the above reasoning is justified, the practice of mock-trials recently introduced solemnly as an epoch-making innovation is nothing but a revival of a practice so long abandoned by civilized peoples that its origin in the remote past has become forgotten.

Although, as has repeatedly been demonstrated of late, a mock-trial can be carried out more or less in the form of a judicial trial, the origin and purpose of a mock-trial is entirely distinct from the origin and purpose of a judicial trial. The former, an act of symbolic vengeance in which the victim suffers for the misdoings of his species or nation, dates from remote antiquity, from the dawn period of humanity when the shadowy border line between the subhuman and the human had barely been passed. The judicial trial is obviously of much later origin, originating at the time when human communities had begun to adopt customs and taboos and the necessity arose of deciding whether these had been infringed. The person condemned at a judicial trial suffers not as a symbol but for personal acts of which he has personally been found guilty.

It is assumed that the reader is sufficiently familiar with the details of the Nürnberg proceedings of 1945-1946, so that there is no need to point out how closely primitive precedents were unconsciously followed in them. The underlying spirit will be further examined later on in these pages. One indication

of this spirit may, however, be given here. The statement was actually made in the British press that three British housewives were to be selected and sent to Nürnberg at public expense to attend these proceedings as representatives of the British housewives who had endured the Blitz.

Incredible as it now appears, the likelihood of some such arrangement being adopted was at the time widely discussed in responsible and influential circles. A variation of the idea, specifically reported not as a vague possibility under consideration but as a serious arrangement being actively carried into effect, will be found in the *Daily Mail* of November 29, 1945 under front page headlines, "Blitz Housewife to Face Goering & Co." Beneath is printed a report from "our special correspondent in Nürnberg, Rhona Churchill," which begins, "Mrs. Jones, typical British housewife, who has stood in the fish-queue, been through the Blitz, and had her whole domestic life turned upside down by the war, is to be invited to come to Nürnberg and see in court the men who caused her troubles."

Rhona Churchill cites as her authority for this announcement, Major Peter Casson, whom she describes as "Officer in Charge of V.I.P.s" (Very Important People). This military gentleman, she states, assured her that plans already existed to carry into effect this proposal, and that he himself "was asking Lord Justice Lawrence's Marshal to make the necessary arrangements, because technically 'Mrs. Jones' will come here as guest of the British judges."

Unfortunately, it is not known what was the reaction of Lord Justice Lawrence when he was informed by his Marshal that the V.I.P. Officer had appointed him to act the part of host to the fish-queuing "Mrs. Jones." We can but hazard the guess that it was both dignified and vigorous. Until definite information on this point comes to hand, Rhona Churchill's message will remain incomplete. Nevertheless, as it stands, this message is of unique interest to historians and anthropologists, although clearly neither Rhona Churchill nor Peter Casson had the least comprehension of its significance. That there could exist any reasonable objection to such a proposal evidently occurred to neither of them although the sapient Major expressed fears that red-tape might cause some delay. As "Mrs. Jones" would "travel here as a V.I.P., possibly by

air, live in a V.I.P. hotel, and use one of the V.I.P. gallery seats," Major Casson had no doubt that there would be keen competition for the post, but he added, "We are hoping there will be no wire-pulling and the woman who comes here will really be a typical housewife." He gathered that the Home Office would make the selection and that the housewife selected would be accompanied not by two female companions but by an A.R.P. warden and "a rank and file soldier who had won the V.C." He concluded by telling Rhona Churchill that he understood that Lord Justice Lawrence had sent Mr. Winston Churchill a cordial invitation to come to Nürnberg, not as a member of "Mrs. Jones'" troop but as his personal guest. A close personal friend had reported, however, that the Prime Minister was hesitating to accept "for fear that he might give a false impression of gloating over his defeated enemies."

It will be observed that both Rhona Churchill and the democratically-minded Major Casson assumed as a matter of common knowledge that "Goering & Co." were, in fact, the men who had caused "Mrs. Jones'" troubles. Yet, only eighteen months before, an authoritative book had been published by a former Principal Secretary of the British Air Ministry, Mr. J. M. Spaight, C.B., C.B.E., for the express purpose of establishing the fact that the origin of the Blitz could be traced to a brain wave which came to British military experts as long before as 1936. Mr. Spaight made it clear that "Mrs. Jones" and everyone else who experienced the Blitz had endured it, not as helpless and passive victims, but as a result of "a splendid decision" to make them endure it which the British experts themselves had come to. This most remarkable book, *Bombing Vindicated*,⁷ will be examined in detail later in these pages: it is only necessary here to note that its conclusions were accepted by all informed persons without question at the time of its publication in April, 1944. In fact, no attempt has been made since by anyone to contradict or refute its claims. The British public gladly accepted Mr. Spaight's contentions as a well deserved compliment, but at the same time remained as firmly convinced as ever that "Goering & Co." were entirely responsible for the Blitz.

To social psychologists, also, Rhona Churchill's message to the *Daily Mail* is of the greatest interest because it provides

⁷ J. M. Spaight, *Bombing Vindicated*, London: Bles, 1944.

a classic example of that system of thought which George Orwell has analyzed in his startling book, *Nineteen Eighty-four*,⁸ under the label, *doublethink*, the system which turns to practical account the philosophic proposition that truth is what best serves the interest of the community. Now, clearly, in 1945 it was in the interests of the community that the belief should be maintained that the Blitz had been endured as a result of a splendid decision to endure it by the British public. It was desirable that "Mrs. Jones" should remain convinced that she had voluntarily elected to undergo this ordeal as a result of her intellectual conviction that only by undergoing it could Right and Justice triumph. Therefore, Mr. Spaight's facts were true and his contentions justified. But, at the same time, for the purposes of the trial at Nürnberg, it was desirable—and therefore true—that "Mrs. Jones" should be an entirely helpless victim. Not only was "Mrs. Jones" a symbol: "Goering & Co." were also symbols. They symbolized, of course, evil overcome. The trial at Nürnberg was not what James Whistler would have called an "Arrangement in Grey." It was an arrangement in black and white, jet Black and dazzling White. The Blitz was undeniably an evil. For the purposes of the trial no limitations of the evil symbolized by "Goering & Co." could be admitted. It was, therefore, necessary—and, therefore, true—to maintain that "Goering & Co." were responsible for the Blitz, or as Rhona Churchill puts it, "they had caused 'Mrs. Jones' troubles."

Acceptance of the plans disclosed by Major Casson to Rhona Churchill would thus have imposed on the British public the task of believing simultaneously two contradictory and utterly irreconcilable assertions. This, in itself, however, would have been no obstacle to their acceptance since, during the war years, the British public had been carefully trained in *doublethink* as an essential part of the war effort. The gallant major himself only apprehended difficulty from official red-tape in arranging details. Nevertheless, after that first triumphant announcement of these plans in the *Daily Mail*, nothing further was heard of them. No alternative plans were put forward by anyone. For a reason or reasons unknown, discussion of the matter ceased and the whole subject was quickly forgotten.

⁸ George Orwell, *Nineteen Eighty-four*, New York: Harcourt, Brace, 1949.

Although abruptly cut short and consigned to oblivion, this episode provides an invaluable starting point for inquiry. The mere fact that it was possible without causing general astonishment to announce the existence of plans to carry out such a purpose, indicates that the British public in 1945 was in a frame of mind which it is impossible to describe as judicial in any accepted sense of the word. But the underlying idea is so entirely in accord with primitive tradition that the possibility is at once suggested that it might have been inspired by what Dr. Jung would call a dim racial memory. Among primitive peoples of the present day and, by inference, among those of the remote past, an essential feature of the symbolic act of retribution was the formal mocking of the victim. Whether a modern tiger, a prehistoric cave bear, or a captive human enemy, the preliminary part of the ceremony consists of reminding the captive of his past power and strength, contrasted with his present helplessness, and followed by a description of the torments which he must shortly endure. It seems also to have been a general practice to leave this part of the ceremony to the women of the community, probably with the idea that this would add to the humiliation of the victim.

A ceremony of this kind, carried out in accordance with prehistoric ritual is clearly indicated in the story of the downfall of King Agag in the first Book of Samuel. In a few terse, vivid sentences we are told how the gallant Saul defeated and captured Agag but spared his life contrary to ancient tradition and to the outspoken annoyance of the prophet Samuel, who strongly disapproved of what has now come to be called "pampering." By threats of revolution, Saul is reduced to admitting that he had sinned in not acting in accordance with traditional ferocity and, to prevent any possibility of the captive escaping death by what we should call a "wangle," Samuel undertook the role of judge-executioner himself, and "hewed Agag in pieces before the Lord in Gilgal"—clearly the form of execution called by the Chinese "death by a thousand and one cuts." Before this gruesome work was commenced, however, the fallen King of Amalek is recorded as observing to the prophet, "Surely the bitterness of death is past."

As it stands in the text this observation is utterly incomprehensible. Brought forth suddenly from honorable captivity as a prisoner of war to find himself arbitrarily condemned to a horrible and lingering death by a self-appointed judge-execu-

tioner, this is surely the last comment one would expect the unfortunate monarch to make to the bloodthirsty old prophet awaiting him, knife in hand.

If, however, we assume that the ancient ritual had been strictly followed—as a matter of course, and therefore not worth recording—the significance of Agag's remark becomes clear. For some hours previously, Agag would have stood tied to a stake surrounded by the daughters of Zion screaming insults, enlarging on his shortcomings, and describing with a wealth of oriental imagery the details of the treatment which he would shortly endure at the hands of the prophet. Even if this ordeal had only been a matter of hours—and not twelve months—it is easy to understand how Agag could have reached the state of mind of exclaiming to Samuel, "I realize what you are going to do with me, but for pity's sake begin it at once without any further waiting!"

Passing through space and time from Gilgal, in B.C. 1079, to Nürnberg, in A.D. 1945, it is interesting to speculate why ancient practice was not followed in this respect at Nürnberg. Perhaps it was feared that the presence of three housewives performing the symbolic act of gloating would prove embarrassing to the eminent members of the English Bar, who had been prevailed upon to take part in the proceedings on the assurance that these would partake strictly of a judicial character? Or perhaps the problem of deciding what exactly should be the role of these three females proved insoluble—should their participation be limited to one ladylike stare directed at each of the captives, or should certain sounds and gestures, strictly in accordance with the most ancient tradition, be barred because these had become associated in the modern mind with the music hall? A suitable attire for the ceremony would also not have been easy to find—traditional attire might have suggested fancy dress or a Hawaiian chorus, while umbrellas and handbags would have been an obvious anachronism for participants in so ancient a ceremonial. Most probably, however, the idea was abandoned owing to the stage managers despairing of being able to find three females who, however carefully selected and trained, could be trusted to act the role decided upon in such unfamiliar surroundings. Women of whatever class would today find it difficult to assume to order the manners of their remote ancestresses and in whichever way their deportment failed—whether it was too theatrical or too

wooden—the result would introduce an atmosphere of farce or even of burlesque which, beyond all else, it was desired to avoid so far as it was possible.

To summarize the conclusions which we may arrive at with regard to warfare in prehistoric times, we may say that, in essentials, it in no way differed markedly from warfare today. It will be found that neither in causes, conduct, nor results do fundamental distinctions exist.

With regard to causes, in prehistoric times warfare probably usually arose as a result of a change of climatic conditions causing a shifting of population from an area which had become uninhabitable to another already populated. In modern times, one of the commonest causes of war is an over-populated country seeking to find by violence an outlet for its surplus population.

With regard to conduct, the spirit in which warfare was conducted in prehistoric times was probably exactly similar to that in which warfare has come to be conducted during the last decade. In both, the main characteristics are directness, simplicity, and an entire lack of artificial restraints. In both, the only rule is to damage the enemy in any way physically possible. Above all, in neither will any trace be found of that perhaps arbitrary distinction between combatants and non-combatants, that is to say between the enemy's armed forces and the enemy's women and children. In both, democratic principles are followed: no privilege is granted to anyone—however weak and defenseless.

With regard to results, certain distinctions appear, but these can not be termed fundamental. In prehistoric times, wars were wars of extermination: one killed all the enemies one could and took away or destroyed all enemy property upon which one could lay one's hands. In present-day warfare, to date at any rate, only distinguished enemy leaders are done to death, although it must not be forgotten that, in 1945, many quite minor German political leaders and officials were summarily murdered. The fact remains, however, that the bulk of the enemy population is not at present deliberately exterminated. Still, much the same result is achieved when an industrial population is dealt with by dismantling and removing the factories on which it depends for subsistence, by cutting off imports, forbidding exports, and leaving the population to starve. The consequence of this procedure will be realized if one can

imagine the fate of the inhabitants of Lancashire, if all the cotton mills of Lancashire were dismantled, and the essential machinery removed to some foreign land. Prehistoric warfare created a desert and called it peace—*solitudinem faciunt, pacem appellant*—warfare today creates a slum and calls that peace.

The main distinction between prehistoric and contemporary warfare is that, in the former, prisoners were killed and not condemned to forced labor for their captors and, of course, mass deportations were quite unknown. Both of these characteristics of present-day warfare have been borrowed from warfare as it developed after mankind had formed settled communities, a development which will be considered in the next chapter.

CHAPTER II

ORGANIZED WARFARE

WARS in prehistoric times were unplanned, unrelated, and probably rare happenings. They might be what we should call wars of aggression, but they were certainly not wars of planned aggression.

A community living somewhere in northern Europe, let us say on the shores of the Baltic, would find their hunting grounds becoming less and less able to support them owing to the gradual advance of icefields from Scandinavia. In desperation, they would trek southward in search of less rigorous conditions and would find such in, say, some river valley in southern France. The inhabitants of this valley would resent this trespass on their hunting grounds. A clash—quite unintended by both sides—would result. One side would be wiped out or scattered, and for the victors life would proceed as peaceably as of yore.

All this was changed when mankind began to practice agriculture and to form settled communities. In the first place, this permitted a great increase in the density of populations. Secondly, it led for the first time to the accumulation in one spot of stores of food and desirable articles, such as weapons, tools, pottery and jewelry—that is to say, wealth, or to use military nomenclature, loot.

From this early period at the dawn of history, wars of conquest must be dated. The hunters, and, after the domestication of animals, herdsmen and shepherds of the surrounding country, were inevitably filled with covetousness when they visited those early agricultural settlements in the valleys of the Nile and Euphrates. It is no accident that the composer of the Ten Commandments included covetousness among those sins under the particular displeasure of the Almighty. Perhaps, as he wrote, he had just seen in the eyes of some half-savage visitors to his native city the feelings which they could not disguise when they contrasted the wealth and comfort which they saw around them with their own poverty and precarious mode of life.

From the earliest times, the settled agricultural communities along the Nile and Euphrates were subjected to periodic raids and invasions by the savage tribes inhabiting the desert or mountain hinterland. These alternated with preventive wars undertaken in self-protection by the agricultural communities. The news would come in that the tribes were planning another attack and, to forestall this attack, a punitive expedition would be sent forth.

Thus, as early as the times before the first dynasty in Egypt, and in the days of the Sumerian Kings of Southern Mesopotamia, two of the commonest varieties of warfare had arisen—the war of conquest undertaken to acquire the property of others, and the preventive war designed to frustrate an expected attack. These two varieties of warfare together form one of the two main divisions into which warfare may be divided, namely *primary warfare*, that is warfare between combatants at different stages of civilization. Most of the really important wars of history have been primary wars.

The second of the two main divisions of warfare may be labelled *secondary warfare*. Secondary wars are wars between combatants at the same or approximately the same stage of civilization. In this division are included all civil wars and, in fact, all the wars in this division are in essence only civil wars. Although often extremely protracted and sanguinary, their results are generally far less important than those of primary wars.

The question of primary and secondary wars will be dealt with in more detail later in this book. It is only necessary here to make clear the distinction between them since they are often confused. From the standpoint of world history, the political and cultural results of a war between states at different levels of civilization are always important, even though the bloodshed may be small. In wars between states having similar or identical civilizations, the institutional changes are often unimportant although the loss of life may be very great.

It is a curious fact that, although the civilized inhabitants of the Nile Valley lived under the constant menace of primary warfare in the shape of devastating invasions by the savage tribes of Syria, Nubia and the Libyan desert, they seemed to have indulged with enthusiasm in secondary warfare, that is to say, in minor wars between the various principalities into which Egypt, in pre-dynastic times, was divided. What an

attack by savage nomadic tribes upon a civilized agricultural community could entail, we can ascertain from the glowing description of such an attack contained in the Book of Joshua. There we read that the Hebrews, when they invaded the land of Canaan slew "both man and woman, young and old, and ox and sheep and ass with the sword...the young man and the virgin, the suckling also and the man with grey hairs."

In view of this ghastly performance in which the holy men of Israel evidently took great pride, it is certainly remarkable that the prophet Samuel should have had the effrontery to chide King Agag because "his sword had made women childless." One cannot help wondering why it did not occur to the King of Amalek to make the obvious retort. It may be in fact that he did so retort, but the Hebrew scribe in attendance did not think his words worthy of record. Alternatively, it must be remembered that Samuel had appointed himself judge-executioner and, therefore, it is likely that, in his role of judge, he ruled any defense or objection by the prisoner as *per se* irrelevant. We are required to assume that Samuel throughout acted on inspiration from On High which, if the case, satisfactorily explains how he managed to grasp the most novel discovery of recent international jurisprudence, namely, that the most assured method of securing a conviction is to permit the accuser also to act the part of judge.

Returning to the times when civilization first dawned in Egypt, we find evidence in plenty of primary wars in the shape of periodic invasions by various barbarous peoples alternating with preventive wars leading to punitive expeditions penetrating far into Sinai, Nubia, and even Syria. At the same time, secondary wars were frequent in the shape of civil wars between the native Egyptians.

The inhabitants of the lower Euphrates Valley were even more exposed to attack by barbarous neighbors than their contemporaries living in the Valley of the Nile. Precisely the same conditions existed there, however. Invasions were sometimes victoriously repulsed and at other times they led to massacres, devastation and the enslavement of the survivors. Invariably, however, the victorious nomads ended by adopting the civilization of the vanquished, so that in a few generations life proceeded very much as before. Energetic rulers waged preventive wars and led punitive expeditions far into the mountains of Elam and Armenia and even into the plains of Syria.

The ancient inhabitants of the Euphrates Valley were more warlike than the inhabitants of the Valley of the Nile and frequent civil wars occurred between the leading city states, Ur, Kish, Akkad, Lagash, Umma and Eridu.

One of the earliest records of those distant times which have survived is the famous Stele of the Vultures, now in the Louvre, dating from about 2,700 B.C. On it King Eannatum of Lagash commemorates his defeat of the men of the neighboring City of Umma. He proudly claims to have killed 3,500 of them and the stele takes its name from one of its panels portraying vultures partaking of the bodies of the slain. King Eannatum shows himself to have been a civilized opponent. The citizens of Umma were granted an honorable negotiated peace by which they ceded to Lagash certain fields lying between the two cities, the new frontier being marked by a newly dug ditch, safeguarded, no doubt, for all time by the invocation of the curses of the gods upon the head of anyone who should presume to vary this settlement by unilateral action. From the terms of peace it is clear that no demand for unconditional surrender was made; the gentlemanly Eannatum would no doubt have considered this bad form as between neighbors. A mock-trial of the leaders of the citizens of Umma apparently did not appeal to him: probably he would have found it an embarrassing farce. Eannatum was satisfied with the annexation of some fields, and the payment of an indemnity in grain by annual installments. Realizing that the prosperity of his subjects was dependent on the prosperity of their neighbors, he did not insist that a valuable market for the goods of Lagash should either be destroyed or turned into a slum. Altogether, warfare in those remote times in Mesopotamia seems to have attained much the same stage of reason and restraint as warfare between civilized European Powers during the nineteenth century.

Such moderation would, of course, only have been practiced in secondary wars; in wars that is to say between states of similar culture such as Lagash and Umma. It would not have been practiced in primary warfare, even by so enlightened a monarch as King Eannatum, against the mountaineers of Elam or the nomads of Arabia. But, with regard even to primary warfare, an entirely new and potent factor was beginning to make its influence felt as a consequence of the introduction of agriculture and the establishment of settled communities.

To a hunting community, a prisoner of war is merely an extra mouth to feed. He is an incumbrance to be retained, if at all, only long enough to provide diversion by torturing him to death. Generally, prisoners taken in battle would be disposed of summarily with a stone club.¹

But as soon as a state of civilization had been reached in which there were fields to be tilled, walls, temples, palaces and tombs to be built, and mines to be worked, a prisoner of war ceased to be merely an extra mouth to feed, and came to possess a definite economic value as a slave.

Professor M. R. Davie expresses the opinion that "the mitigation of war received its greatest impetus from the institution of slavery which put an end to slaughter and alleviated torture in order not to impair the efficiency of the captive as a worker."²

The direct, and still more the indirect, consequences of this innovation were far reaching. Portable loot ceased to be the only glittering prize, or, in fact, the chief of the glittering prizes, offered by a successful war. Punitive expeditions undertaken by civilized communities against barbarous neighbors ceased to be arduous and costly measures only to be undertaken to frustrate an attack, but became profitable slave collecting expeditions. In wars of conquest between civilized states, frequently the proceeds of the sale of prisoners of war was the most satisfactory feature of victory in the eyes of the victors. This was always the case in preventive wars, waged by civilized states to safeguard their frontiers—such, for example, as the wars of the Romans in Gaul and Germany.

An equally important consequence of the introduction of slavery was that it relieved a section of the community from the necessity of taking part in any form of manual labor. Thus arose, for the first time in the history of mankind, a leisure class not dependent on its own exertions for maintenance and with little to do except when called upon to take part in war. Since slaves performed manual labor, there gradually became implanted in this class the idea there was something degrading about taking part in any form of labor. In short, to work was

¹ The ancient attitude toward a prisoner taken in war was well expressed in the definition recently given by Mr. Winston Churchill in the debate on the Korean War on July 1, 1952: "What is a prisoner of war? A prisoner of war is a man who has tried to kill you and, having failed, asks you not to kill him."

² M. R. Davie, *The Evolution of War*, New Haven: Yale University Press, 1929, p. 194.

equivalent to sinking to the level of a slave. The only form of work which a member of the leisure class could undertake without loss of dignity was work connected with warfare, since from such work slaves were naturally debarred. Once implanted, this idea continued to flourish unchallenged in influential circles in most countries down to 1918.

The establishment of a leisure class, the members of which could only justify their existence even to themselves by taking part in or preparing for war, gradually introduced an entirely new variety of warfare. Hitherto, wars had been waged as a means to an end—for example, to find additional territory for a surplus population, to collect loot, whether portable property or slaves, to extort tribute from a weaker neighbor, or to forestall an expected attack. But, from the rise of a leisure class onward there will be found numerous examples of wars in which such objects play quite a secondary role. These considerations served merely as excuses for war. Such wars, for want of a better term, may be labelled *wars for glory*.

Wars for glory are the natural expression of the need of a ruling military caste, cut off by an oppressive sense of its own dignity from taking part in activities open to civilians, to find an outlet for its energies. Brought up to regard military exploits as alone worthy of admiration, only in warfare can the members of such a caste prove themselves worthy of their ancestors and of the traditions of the service which is their sole pride. Only on the battlefield can they escape boredom and find fulfillment. In days when warfare was conducted in accordance with rules which controlled and kept within limits the destruction and suffering inseparable from warfare, this attitude of mind enjoyed considerable respect. To regard warfare as a means of self-expression was formerly considered picturesque and romantic, whereas now it appears only grotesque or exasperating. It depended, of course, on the unquestioned belief that success in a war demonstrated the superior courage and general manliness of the victors, whereas now, as Captain Liddell Hart has well pointed out, it merely demonstrates that the victors possess greater resources or superior technical equipment.³ During the last decade, the idea of making war for honor or glory has become completely obsolete and may soon become incomprehensible. Perhaps it was always more readily

³ Captain Liddell Hart, *The Revolution in Warfare*, London: Faber, 1946, p. 81.

associated with Don Quixote than with St. George. Still there may be something to be said for the obsolete view which esteems fighting in order to prove oneself worthy of a tradition of which one is justly proud. It is certainly a higher motive than inducing others to fight so that by their fighting one can obtain possession of an oil field or eliminate a trade rival.

In the earliest times, no dominant military caste seems to have arisen in Mesopotamia. On one panel of the Stele of the Vultures above-mentioned, King Eannatum had himself portrayed at the head of a phalanx of heavy infantry armed with large square shields and copper-tipped spears. To fight in this formation would have required some peacetime training and leadership by officers who had studied the art of war. Judged by their own accounts of their achievements, there was no lack in those days of able generals. Eannatum tells us that he waged successful wars from Elam in the East to Ur in the West. A later monarch, the famous Sargon of Akkad, (2360-2305 B.C.) boasts that he conquered "all lands from the rising to the setting of the sun." One of the latter's successors, Naram-Sin (2280-2242 B.C.), considered his conquests entitled him to adopt the title of "King of the Four Quarters of the World." When Babylon rose to supremacy in Mesopotamia, a widespread empire was consolidated by the famous Hammurabi (1728-1676 B.C.) and his successors.

But the inhabitants of lower Mesopotamia, whether of Sumerian or Semitic stock, were not primarily a military people. Their main concerns were agriculture and trade. To find a state created by and existing for successful warfare, we must pass over some nine hundred years which followed the reign of King Hammurabi, and come to the beginning of the ninth century B.C., when the Kings of Assyria had established themselves as the most powerful rulers in Western Asia.

The Empire of Assyria demands consideration in some detail as the outstanding example of a state which existed mainly by warfare for warfare. Other nations which have excelled in warfare have excelled also in other activities. The Romans were not only soldiers but statesmen, law makers and builders. The Normans produced great rulers, builders and ecclesiastics. The Germans of modern times have excelled in science, music and literature. But, in public policy, the Assyrian leaders were interested chiefly in warfare. Many of their rulers were, indeed, indefatigable builders of huge palaces, but they used the vast

wall spaces chiefly for bas-reliefs which depicted their glorious military achievements. Assyrian artists reached very high levels of achievement, but their work was usually limited to portraying battle and hunting scenes. Apart from the art of war and the science of imperial administration the Assyrians adopted almost entirely the civilization of their neighbors and kinsmen, especially the Babylonians, though they did make important contributions to law, religion, and literature (particularly in the compilation of the royal annals).⁴

Like Prussia in the seventeenth century, the greatness of Assyria can be traced to her original natural weakness. Of all the German states, Prussia had the longest and most exposed frontiers: to put a stop to repeated invasions by predatory neighbors, the Great Elector established a strong army, the victories of which laid the foundations of a great military tradition. In the same way, Assyria, in part a wide plain lying between the upper Euphrates and the upper Tigris, was exposed to attack by the mountain tribes of Kurdistan and Armenia to the East and North, to invasions by the powerful princes of Syria to the West, and to tribute-collecting expeditions by the kings of Babylon to the South. For centuries, invasions and raids had been patiently endured, but at length there arose less patient rulers who began to lead more and more frequent punitive expeditions against the most troublesome of Assyria's enemies, the fierce mountain tribes of Armenia. In these petty wars in most difficult country, a standing army of veteran troops was gradually established which lay ready to hand when a ruler should arise capable of realizing the possibilities which the possession of such a weapon offered. It was perhaps inevitable that this army, originally created for defense, would sooner or later be employed for aggrandizement.

As a consequence of this employment, the fact has been long overlooked that Assyria performed a real service to the civilized nations of the Middle East by providing a barrier between them and the wild nomadic tribes of Central Asia. In recognition of this service, Professor A. T. Olmstead has preferred to call the Assyrians the "shepherd dogs of Mesopotamian civilization" rather than the "wolves" they have been

⁴ For a revision of the earlier view that the Assyrians had no interests, or made no achievements, outside the field of warfare, see A. T. Olmstead, *History of Assyria*, Scribner, 1923, Chap. XLIX.

called by earlier historians. From their contemporaries, however, the Assyrians received no such recognition. They were regarded with unqualified fear and hatred. Not until after three centuries of security from external foes, when the Sythian hordes broke through the Assyrian barrier and carried fire and sword throughout the Middle East, was the fact realized that there could exist an even greater evil than subjection to the Assyrian yoke.

Perhaps the nearest parallel to the role of Assyria in the affairs of the ancient Middle East is the role of Prussia in the affairs of modern Europe. Relying on the possession of a splendid army originally created as the price of survival, the rulers of Prussia earned for their country general unpopularity and ill-will, not only among foreigners but among their German fellow countrymen, by their high-handed and aggressive dealings. As a consequence, few in Germany now care to remember that German unity was first achieved by Prussian efficiency, self-sacrifice and discipline; few in Western Europe yet realize the fact that only so long as the army created by the Prussian Kings existed could the possibility of attack and subjugation by enemies from the East be safely disregarded.

For many centuries the history of Assyria seems to have been that of a minor oriental state. At times, she rose to power under able rulers—such as Tiglath Pileser I (1120-1100 B.C.)—and then under feeble rulers sank into obscurity again.

The military potentialities of the Assyrian veterans were fully realized by Assurnazirpal who ascended the throne of Nineveh in 883 B.C. He began by chastising in eight consecutive campaigns the mountaineers of the North with unprecedented severity. He then turned his attention westward and reached the Mediterranean where the rich Phoenician cities of Tyre and Sidon purchased safety by a payment of "gold, silver, tin and copper, woollen and linen garments and much strong timber from Lebanon." His successor, Shalmaneser, extended his dominions from Syria to the Persian Gulf, and for nearly three centuries we find an unbroken record of conquests which carried the arms of Assyria over the entire Middle East as far as the banks of the Nile.

Probably, no other state in world history can compare with Assyria as the incarnation of implacable, untiring, efficient militarism. In a later age, in the Greek state of Sparta, all the comforts and amenities of life were sacrificed for the

benefit of military efficiency, but the Spartans made no contributions worth mentioning to the art of war. A Spartan army was only a large commando force composed of highly trained athletes fighting on foot and equipped like other Greek soldiers of the time. On the other hand, no other people until the twentieth century so revolutionized the technique and methods of warfare as did the Assyrians. An Assyrian army was composed of specialists in every branch of warfare. There were regiments of heavy infantry armed with shields and spears, regiments of archers and slingers, a chariot corps, and light cavalry. There was a corps of sappers skilled in undermining the walls of a town and in working the various types of movable battering rams and siege towers, some with six wheels and some with four. There was a pontoon section able to throw a bridge across a river or to supply bladders upon which, when inflated, the infantry was trained to cross a stream by swimming. There was a transport section with camels to carry baggage and even field kitchens for use during campaigns. Last, but not least, there were execution squads, expert in disposing of prisoners of war in a score of ingenious and painful ways.

When the records of the Assyrian warrior kings were first discovered and deciphered in the mid-nineteenth century, our worthy Victorian forefathers were filled with uncomprehending horror when they read the awesome details of atrocities so proudly described therein. In their eyes, Assurnazirpal and his successors on the throne of Assyria appeared as sadistic monsters, the subjects of a pathological obsession. But we, more fortunately placed to understand their mental processes, can see that they might have given a plausible explanation of their conduct. One reason why the Assyrians so horrified readers of their history a century ago was that less was then known about the military excesses and massacres of their predecessors and contemporaries.

When the atom bomb was dropped on Hiroshima in 1945, whereby an entire civilian population of 70,000 was wiped out, it was explained that this act in fact saved the lives of many soldiers, who would otherwise have been sacrificed in costly landings on the Japanese mainland. Similar justification can be urged with regard to all the acts of indiscriminate bombing which began in 1940, with the exception only of the bombing of Dresden in February, 1945, which took place after the war

had ceased to be a military operation. Could not King Asshur-nazirpal have said in reply to his critics: "When I impaled, blinded, flayed alive, burned and otherwise tortured to death my prisoners, the terror of my glorious name spread through the surrounding lands. As a result, valuable human life was saved. Thereafter, when I desired to capture a city, my gallant troops had no longer to storm it, suffering cruel losses, since the inhabitants came forth straightway to kiss the dust at my feet. Thereby the precious lives of my brave soldiers were spared."

That there is some substance in this argument cannot be denied. It fails, however, to account for the fact that Asshur-nazirpal and other Assyrian monarchs preferred bas-reliefs portraying these horrors to most other decorations for the walls of their palaces. Evidently, therefore, they must have taken pleasure in being reminded of them. It is upon this predilection that the charge of sadism can be based, and not upon their method of dealing with prisoners of war in itself, which was only the traditional method inherited from their prehistoric forefathers, carried out by the Assyrians on a larger scale and in a more spectacular manner. Many peoples, it is true, have dealt with captive enemies in accordance with this venerable tradition both in ancient and modern times. The reputation of the Red Indians of North America is particularly black in this respect, although some have contended that they only adopted such practices, along with warlike and predatory habits, from the European settlers. This charitable view is, however, at variance with the evidence of Samuel de Champlain, one of the earliest French pioneers in Canada, who professes to have been horrified by the treatment meted out to some Iroquois prisoners by the Huron allies of the French after a skirmish in which, thanks to the firearms of Champlain and his men, the Hurons were successful. It speaks volumes for the skill and ingenuity of untutored savages that they should have been able to shock a Christian European of the sixteenth century.

Until restrained by more civilized or at any rate more powerful neighbors professing different and perhaps more artificial standards of conduct, most savage peoples have observed the ancient traditional practice in their dealing with enemies taken captive in war. Among some peoples an interesting variation of traditional practice is met with. The actual work of disposing of prisoners is handed over to the women, the men

merely acting as spectators. The authorities differ as to whether this custom was due in the first place to masculine indolence, to the longer persistence of malice in the female mind, or to recognition of the superior dexterity of the feminine hand in achieving artistic results.⁵ At all events it is certain that prisoners in the hands of the Apaches of Arizona, of many nomad tribes of Arabia and the Sahara, or of the Druses of Syria have never had much occasion for thankfulness that their captors had adopted this strange custom.

There is no trace that any such custom existed among the Assyrians. We have no evidence that a woman ever secured admission to the military execution squads. There seem to have been in the Assyrian army no regiments of lady warriors such as were a dread feature of the army of old Dahomey—a native West African country. In the latter state, which in some respects bore a crude resemblance to Assyria, there existed a crack corps of virgin warriors, whose virginity, it may be added, was safeguarded by the infliction of a horrible death in the case of moral lapses. Dahomey also provided a novel variation with regard to the treatment of prisoners of war. The Assyrians, as we have seen, executed enemy leaders publicly in various ingenious ways and enslaved the survivors. The negro kings of Dahomey trained their schoolboy subjects in the use of weapons and accustomed them to the sight of bloodshed by handing prisoners of war over to them for execution.

Original variation from accepted practice did not appeal to the Assyrians. Strictly practical and conservative in outlook, they believed that the activities of women should be limited to bearing future warriors, to solacing the leave of warriors at home from the various fronts, and to taking part with due enthusiasm in the annual "V Day" rejoicings. Executions of prisoners of war, they considered, should be carried out with proper pomp and ceremony without regard to utilitarian considerations unfitting to the solemnity of the occasion. Another item which does credit to the Assyrians is that their victory massacres were restricted mainly to males. There was little of

⁵ Champlain, writing in 1613, accepts the latter explanation of this practice in the case of the Hurons and Algonquins of the St. Lawrence. He writes, "The rest of the prisoners were kept to be put to death by the women and girls who by their subtlety invent more cruel tortures than the men and take pleasure in it." The opinion of this eye-witness, considered in relation to the proposal put forward in the *Daily Mail* of the 29th November, 1945 (see p. 15), raises the possibility of sensational developments in the mock-trials which will inevitably follow the next war.

the indiscriminate massacring of women and children—even young babies—which was so common among many ancient oriental peoples.

The collection of trophies has, in all ages, exercised a singular fascination over the military mind. After the war of 1870, every public square in Germany had its display of weapons captured at Wörth, Sedan or Metz; similarly, after 1918, every town and village in Great Britain had pieces of artillery prominently displayed as mementoes of the "War-to-end-war"—from which disfigurements they were, by the irony of fate, only rescued by another war following shortly which made it necessary to melt down these mementoes for munitions.

As one might expect, the Assyrians had a passion for trophies, a passion no doubt inherited from their prehistoric forefathers. Bulky chattels such as cannon not being available, savages are limited to a twofold choice. Most savages, peoples as widely separated as the Maoris of New Zealand, the Indians of Northern Mexico and the Negroes of Dahomey, have selected the human skull as the memento or symbol of victory. The weapons of a primitive enemy may be stolen or reproduced, but an enemy's skull is conclusive proof of his defeat. While warfare remained on a small scale, skulls of deceased enemies served only for display: individual heroes erected them on poles before their front doors. But when slaughter on a more extensive scale began, more elaborate collections became possible. In popular belief the credit has been given to the medieval Tartar conqueror, Tamerlane, for originating the idea of erecting pyramids composed of the skulls of fallen enemies. But, more than two thousand years before the days of Tamerlane, we find the Assyrians proudly erecting pyramids of skulls. Thus King Tiglath Pileser records that while campaigning "by the shores of the Upper Sea," (probably the Black Sea) he captured a city and "piled high the heads of the inhabitants before the gates thereof." The only credit for originality which can justly be given to Tamerlane is that he erected pyramids of skulls of outstanding size—or at least such was the firm opinion of his contemporaries.

As an alternative to collecting heads, some savage peoples have preferred to collect the private parts of their enemies. In modern times this predilection has been displayed by the Sumalis and Gallas of Northern Africa, certain tribes of Arabia and Syria, and the Kaffirs of South Africa, not forgetting, of

course, our gallant allies in the last war, the Abyssinians. The immoderate gratification of this taste after their great victory of Adowa over the Italians in 1896 aroused such intense horror throughout Italy that some forty years later it greatly facilitated Benito Mussolini's efforts to rouse his countrymen to undertake the reconquest of Abyssinia. Tastes vary in this as in so many other matters, and for reasons unknown the Assyrians seem to have limited themselves to skull collecting.

The Assyrians would have had nothing to learn from the most up-to-date technique with regard to despoiling a vanquished country and to insuring that it should be open to attack for the future. A Reparations Commission and a Disarmament Commission, both military and industrial, must have functioned as permanent state departments. One of the most interesting of the bas-reliefs now in the British Museum shows in the background the walls of a captured city being demolished with pick and spade by Assyrian sappers lest they should become a menace to Assyrian security. In the foreground a procession of soldiers in military formation marches along a road by the bank of a stream, each man carrying some article of plunder. Contrasted with this unit, clearly acting under the orders of the Reparations Commission, is a straggling line also composed of soldiers laden with plunder, but in this case, scampering along through a wood. The small size of the figures and their hurried unobtrusive progress screened by trees, obviously symbolizes the appropriation of the goods of the vanquished by individual plunderers, doubtful of the full approval of the authorities, but relying upon the repeated official exhortations not to pamper the vanquished. The whole, masterly in composition and execution, must be regarded as the earliest example of the recruiting poster.

With regard to warfare in all its varied aspects, the Assyrians maintained a rigid sense of proportion; they never permitted one aspect to become so exaggerated as to distort the whole. A religious people, they never sacked a city nor executed an enemy war criminal without piously associating God with the deed and, in all circumstances, they acted strictly in accordance with traditional religious practice; on the other hand, they never allowed their warlike activities to become subservient to religion like the Aztecs of Mexico whose wars were fought mainly for the purpose of making prisoners for use as human sacrifices in honor of their god, Huitzilopochtli.

The Assyrians felt a proper pride in collecting military trophies and carefully recorded the erection of any pyramid of skulls of outstanding size but they never, like the Dyaks of Borneo, permitted warfare to degenerate into simple head-hunting. No doubt, the Assyrians derived keen satisfaction from the gruesome rites of their "V Days," but such remained to them merely an enjoyable ceremony fitly marking the end of a campaign. A very different attitude this, for example, from the attitude of the Iroquois of North America to whom a campaign was but an irksome, if necessary, preliminary to the customary orgy round the torture stake. To the Assyrians, religion, the collecting instinct, and even the gratification of sadistic impulses remained subsidiary emotions, adorning warfare but in no way essential to its conduct. To them, as in the opinion of Nietzsche, a good war was its own justification.

No practice of the Assyrians can be of greater interest to the present generation than their method of dealing with the survivors of a vanquished population by mass-deportation. Whether the Assyrians originated this practice is not known with certainty, but they certainly adopted it as a routine procedure and carried it out on a scale unprecedented until the present day.

In defense of the Assyrians, it is only fair to point out that there are fundamental differences between the mass deportations carried out by them and those of recent times. In the first place, the intent in the two cases is quite different. The purpose of the Assyrian rulers was to create a homogeneous population and, to this end, it was their custom to transfer the surviving population of a recently conquered country to some distant part of the empire, at the same time filling their vacant places with the inhabitants of another conquered district intermingled with voluntary settlers from Assyria itself, so as to provide the new population with a loyal core. Such shiftings of population can better be termed mass-transfers. They are obviously totally different from recent mass-deportations which serve the simple twofold purpose of wreaking vengeance on the outlying members of a vanquished race by robbing them of all they possess.

Again, the methods adopted in the two cases are totally different. The evidence of the Assyrian bas-reliefs indicates that the people forcibly transferred from one country to another were allowed to take with them to their new homes their

portable property and cattle. Brutality may not have been lacking, but it would not have had official approval since the intention was that the peoples transferred or their descendants should ultimately become loyal subjects and supporters of the King of Assyria. There can be no real comparison between this procedure, drastic though it may have been, and the contemporary practice of collecting droves of defenseless persons, men, women, and children, to the number of several millions against whom no personal charge of any kind is made (and so charged would now be summarily murdered), selected merely because their native language is the same as that of the inhabitants of the state over the border which happens to have been defeated in a war, robbing them of all they possess, and then dumping them in a strange country already overcrowded and short of food, there to live or die as fate might decree. Here in our day the motive is merely robbery, combined with a desire for revenge if only, as it were, by proxy.

A further point may be urged in extenuation of the Assyrians. The latter were generally dealing with semi-nomadic peoples, or peoples who had only recently acquired by conquest the lands from which they were forcibly deported. The injustice and suffering involved must, in consequence, have been far less than in such mass-deportations as those recently carried out by the Czechs and Poles in the case of the inhabitants of Pomerania, Silesia, and the Sudetenland, who were expelled from lands which their ancestors had occupied for many centuries. Probably the mass transfers of the Assyrians generally amounted to little more than the rounding up of the primitive agriculturists, herdsmen, and shepherds of a thinly-populated country and transferring them to a distant but equally desirable country made vacant for their reception. There is no real comparison between this and the expulsion, for example, of the population of Silesia, a population whose right consisted of undisturbed possession since the days when the Plantagenet Kings ruled England and the greater part of France, when Moscow was the capital of a small principality paying tribute to the Tartar Khans, and only Red Indians wandered where New York was long after to be built. The three million despoiled victims of the Sudetenland could claim an even longer possessory title since their ancestors were in occupation of this corner of Bohemia before the first Anglo-

Saxon pirates landed in England and long before the rest of Bohemia was occupied by the Czechs.

For three centuries, the Assyrian shadow lay like a dark cloud over all Western Asia. Striking first in one direction and then in another, their armies, splendidly organized and equipped, never found an enemy able to resist them in the open field when the terms were anything like equal. In turn, they overthrew the famous chariotry of Syria, the heavy infantry of Babylonia, and the archers of Egypt. Widespread revolts were crushed and powerful alliances shattered. In 645 B.C., King Asshurbanipal, after a victorious campaign in which the powerful state of Elam was crushed and systematically devastated, celebrated a triumph of particular splendor. Three captive kings walked in chains behind his chariot. It must have seemed on that proud "V Day" that the Assyrian Empire might well endure forever.

Within less than forty years of that day the Assyrian Empire was blotted out so completely that it soon became nothing but a hazy memory kept alive only by mention in the Jewish scriptures and stray references preserved in the writings of later Greek authors. It was not until the mid-nineteenth century, when the records of the Assyrian kings were discovered and deciphered, that their achievements became more than legendary.

The comparison has often been made between the Assyrian Empire and the Second Reich founded by Bismarck. Such comparisons may not be odious, but they are often difficult to establish. Any such comparison is hardly reconcilable with the fact that the Reich, after its foundation in 1871, preserved unbroken peace with its neighbors until 1914, a period of forty-three years—a period during which these neighbors all undertook aggressive wars, Great Britain in Egypt and South Africa, France in Tunis and Indo-China, Russia in the Balkans against Turkey and in Manchuria against Japan, the United States against Spain, and even Italy against Turkey in Tripoli. On the other hand, in its swift and dramatic downfall at least, the Assyrian Empire certainly offers some scope for comparison with the Third Reich established by Adolf Hitler.

When, in B.C. 645, King Asshurbanipal celebrated the last great "V Day" of Assyrian arms, the military strength of the Empire, seemingly unshakable, was spread out over a vast area from the Nile to the mountains of modern Persia. Suddenly,

without warning, there issued from the far and unknown north one of those great hordes of nomads such as in historic time the plains of Eurasia have periodically sent forth. This horde of nomads, known to their victims as Sythians, was no less formidable than the similar hordes of Huns, Magyars, Mongols, Tartars, and Turks destined to follow them. They swept in an irresistible flood over the entire Middle East as far as the borders of Egypt. Resistance in the field was overwhelmed by weight of numbers: only strongly fortified cities escaped devastation and pillage. Then, after a decade of blood and rapine, the Sythians withdrew as suddenly and mysteriously as they had appeared.

All the states of Western Asia suffered from this visitation but the Assyrian Empire, the largest and most complex political structure of the time, was shaken to its foundations. It was not the practice of the Assyrian High Command to record disasters and we have no details of the fate of the Assyrian armies which tried to withstand in battle the rush of the wild horsemen of the steppes. Only the great cities were safe behind their walls: the countryside was devastated. Immediately the wave of barbarians had withdrawn laden with plunder to their northern homes, the peoples of the Middle East joined together to end the Assyrian menace for ever.

The United Nations of the 7th century B.C. were united only in their hatred of the Assyrians. We may be sure that the shattered remnants of the Assyrian army resisted to the last and, when the odds against them were not too fantastic continued to win splendid but profitless victories. Finally however, only the capital, Nineveh, held out behind the vast and scientifically planned fortifications erected by King Sennacherib. After a long siege, the Medes broke into the doomed city in August, 612 B.C., and the last Assyrian King in despair heaped up his treasures in one vast funeral pile and, like Hitler, perished in the blaze with his wives, chief officers of state and the surviving generals of his army.

We may not feel surprised, perhaps, that, having thus triumphed, the United Nations immediately turned upon each other. The Medes attacked the Lydians, and the Egyptians came into conflict with the Babylonians. The latter, under Nebuchadnezzar, defeated the Egyptians and established a short-lived empire which faithfully reproduced all the characteristic features of Assyrian rule—wars of conquest, mass de-

portations, massacres and mutilations, as the Second Book of Kings bears eloquent witness. Within a few decades, the Babylonians had been conquered by the Medes, who, in their turn, were overthrown by the Persians under Cyrus, who established an empire of unprecedented extent which realized in essentials the aims towards which the later Assyrian Kings had been striving.

Thus was swiftly and utterly blotted out the great Assyrian Empire, leaving to our Victorian forefathers a memory which to them seemed to symbolize bestial force, cold-blooded ferocity, and ruthlessness systematized. We, however, with our wider experience of such matters, should be ready to grant to the Assyrians the credit of having expressed warfare in terms which, for simplicity and purity, have never been surpassed. In their wars may be found all the essentials of warfare without a trace of scruples or restraints. The rules and restrictions by which warfare later became entangled and cramped would have seemed to the generals of King Assurbanipal just as artificial and vexatious as they now seem to an air marshal of today.

It is not only because the Assyrians were a people chiefly interested in war, but because they were so rigidly orthodox and conventional in their attitude to, and dealings with, anything connected with war which makes a study of them almost sufficient in itself for a student of warfare. Until the present generation, the course of wars in modern times has been influenced by many extraneous influences, moral, ethical and religious. The Assyrians acknowledged the existence of little except military considerations. If they were extreme, it was only because they carried to its furthest limits conventional military practice. One feels that, if he knew all there was to know about the Assyrians, there would remain nothing essential to learn about the nature of warfare.

CHAPTER III

EUROPE'S CIVIL WARS

As pointed out in the last chapter, the first great step towards the amelioration of the cruelties and crudities of primitive warfare arose from the institution of slavery which bestowed on prisoners taken in war an economic value to their captors as slaves.

What produced the next important step forward in this direction?

The answer seems obvious. Suppose a stranger to this planet were first asked to peruse the Sermon on the Mount and was then informed that a religion professing to be based on its teaching was within three centuries accepted as a state religion by the most civilized section of mankind. Would not this stranger immediately decide that the effect of this must have been completely to transform the conduct of war if not, as between Christians at any rate, to abolish war altogether?

A priori this is certainly what might reasonably be expected. Still, as we all know, after nearly two thousand years, Christianity has not abolished war, neither has Christianity to any very marked extent, even as between Christians, transformed it. To what extent and at what date it began to exercise an ameliorating influence is a matter of dispute. It is also a matter of dispute to what extent it was a case of cause and effect that its acceptance by the rulers and peoples of the Roman Empire and the decline and fall of the Roman Empire were concurrent events. Be this as it may, the dissolution of the Roman Empire was followed by the so-called Dark Ages, during which period warfare was conducted with the most primitive savagery, although Christianity was professed by the various barbarian kingdoms into which Western Europe became divided.

If it be complained that the bloody doings of the Frankish and Gothic kings cannot fairly be taken as representative of Christian conduct, in general, or in warfare, in particular, we can turn to the Byzantine Empire where a Christianized variety of Roman civilization survived down to the close of the Middle Ages. The result, it is to be feared, will be disappoint-

ing. The Byzantine emperors conducted their wars strictly in accordance with ancient oriental tradition and, in spite of the fact that most of them were devout Christians, little distinction can be detected except by the eye of faith between their methods and those of the warrior kings of Assyria a thousand years before. The principal claim to fame of one of the most successful rulers of the Byzantine Empire, Basil the Bulgar-Slayer, is that he made it his practice in his campaigns with the Bulgarians to put out the eyes of his prisoners, on one occasion to the number of 15,000.

It is also an unfortunate fact, impossible to deny, that those European wars which have been waged with special ferocity have been those waged in the name of religion. As an early example, the famous Albigensian Crusade of 1209, inspired and directed by one of the greatest of the Popes, Innocent III, to root out heresy in Southern France, may be cited. A contemporary estimate puts the total number of those who perished at 500,000. Exact statistics are lacking, however, since the Crusaders, immersed in their pious labors, had probably little more idea of the number of persons whom they had done to death than have the crews of a modern bombing unit returning from an operational flight over a densely populated residential area. At Béziers, the entire population, to the number of some 20,000, men, women and children were slaughtered "by reason of God's wrath wondrously kindled against it." After the capture of Minerve, in place of the usual massacre, 140 leading heretics were burnt together in one huge bonfire.

The Thirty Years War (1618-1648) supplies a late example of warfare between Christians. Reliable, if incomplete, statistics are available in this instance, and it is generally agreed that, as a result of this protracted struggle, one-third of the population of Central Europe perished. It has been calculated the population of Bohemia was reduced from three millions to 800,000. At the beginning of the war, the important city of Augsburg had 70,000 inhabitants and at the end only 18,000. For more than a generation after the war, one-third of the arable land in North Germany remained uncultivated. Such appalling massacres as that of Magdeburg in 1631¹ will bear

¹ Some 25,000 people were butchered in this massacre, "not one in fifty of whom was armed," Francis Watson, *Wallenstein*, London: Chatto & Windus, 1938, p. 326. Nearly ten times this number of victims are believed to have perished in the bombing of Dresden three centuries later on February 13, 1945. Certainly not one in fifty of the women and children refugees killed on this occasion was armed.

comparison with similar happenings in ancient or modern times. In brief, the preference expressed by the Emperor Ferdinand to rule over a desert rather than a country filled with heretics, was very substantially realized.

The evidence of sixteen centuries thus clearly demonstrates that, whatever consequences might have been expected in theory, the acceptance of Christianity had no perceptible practical influence in mitigating the barbarous conduct of war.

On the other hand it is a fact that what, for want of a better term, is called "*civilized warfare*" is entirely a product of Europe, and Christianity is, and for many centuries has been, the religion of Europeans.

It cannot be too strongly stressed that what is called "*civilized warfare*" is a European product and has never been practiced outside Europe or in countries not under European influence. In the East, warfare continued to be conducted precisely as the Assyrians conducted their wars. When Nadir Shah invaded India, in 1739, he acted exactly as Assurbanipal acted when he invaded Elam. When the Turks set about repressing the revolt of the Greeks in 1821, or the revolt of the Bulgarians in 1876, they applied exactly the same methods as the Persians of Darius' time would have applied in the same circumstances.

Civilized warfare may, therefore, be defined as warfare conducted in accordance with certain rules and restrictions subject to which the nations of Europe became accustomed to wage their wars with each other. When they had achieved military predominance, they also insisted that these rules and restrictions should be observed by non-European States in wars with Europeans.

It certainly requires explanation why the peoples of Europe, alone among the peoples of the earth, should gradually have evolved a code of conduct governing the waging of warfare, a code of conduct which, most ancient and many modern authorities agree, is totally contrary to the whole spirit of war. Why could not they have been content to wage war in the good old simple way, as their forefathers had waged it, and with which so many great military peoples of other Continents had remained content?

To answer this question regard must be had to the unique political development of Europe. The following is a simple

statement of facts, many of which have never been wholly or even partly explained.

At the time of the birth of Christ, there existed on the largest continuous land surface on the globe (divided by geographers into the continents of Europe, Asia and Africa) three main centers of settled population, living independently of each other, each of which had recently crystallized into an empire. The first, known as the Roman Empire, centered round that unique geographical feature known as the Mediterranean Sea and comprised some hundred million inhabitants. The second great center of population was situated in the valleys of the Indus and the Ganges in Northern India. No statistics have survived from which the number of its inhabitants can be estimated, but this area is very large and has always been extremely fertile, so it may be safely assumed that its population was comparable to that of the Roman Empire and to that of the third great center of population situated far away to the East in the valley of the Yellow River in Northern China which, as statistics show, even at that early date, numbered not less than sixty millions.

The political development of these three main centers of population was curiously different. In India, the Empire known as the Mauraya Empire, established in the third century B.C. and reaching its zenith under the famous Buddhist Emperor, Asoka (B.C. 264 to 228), soon dissolved into a number of conflicting fragments. It had no successor for some eighteen hundred years when the Moghul Empire was founded by the Mongol conqueror, Barbar. This empire also dissolved within a century, leaving India the prey of invaders from Europe, of whom the English, after a hard struggle with the French, ultimately achieved supremacy.

In China, on the other hand, the Han Dynasty (B.C. 202 to A.D. 220), after flourishing for four hundred years, broke up approximately at the same time as the contemporary Roman Empire. After a period of civil war and anarchy, it was succeeded by the T'ang Dynasty, which flourished for three hundred years. From the earliest times to the present day, Chinese history has consisted of a succession of long periods of strong central government, separated by relatively short periods of disunity and internal disorder. In 1938, Adolf Hitler's slogan—"Ein Volk, ein Reich, ein Führer"—came as a novel and stirring appeal to the peoples of Central Europe. To the Chinese, from

the beginning of their long history, the proposition "One people, one empire, one emperor" seemed self-evident, although they frankly recognized that incursions by barbarians or the shortcomings of an individual emperor might now and then bring about an unwelcome but temporary interlude of disorder. As a consequence, in China, unity has been regarded as a normal and natural condition, subject only to temporary periodic lapses into anarchy, whereas, in India, long and bitter experience has accustomed the people to look upon anarchy as normal. Thus, when Indian unity was re-established by the Moghul emperors it was regarded as a unique achievement, Indian unity under the Buddhist Emperors having passed away so long before that it had become merely a dim memory of the learned.

In a nutshell, the settled populations of both India and China early crystallized into strong centralized empires: but, whereas, in the case of China, the state thus formed has survived apart from temporary eclipses to the present day, in India, this crystallization had but a brief existence and amorphous political conditions have prevailed, except for relatively short periods.

In Europe political development took a third and entirely different course. As in India and China and at approximately the same time, Europe (or that part of it bordering on the Mediterranean) crystallized into a strong centralized state. Like the Mauraya Empire in India and the Han Empire in China, the Roman Empire declined and broke up. But unlike the Han Empire, the Roman Empire was never restored. Its fall was final. And, unlike the case of India, amorphous political conditions did not continue indefinitely. The peoples of Europe began to crystallize into small independent states, each generally (but not always) based on a more or less clearly defined geographical area. This local crystallization is the distinctive characteristic of the political development of Europe.

Europeans have for so long been accustomed to this local crystallization that they find it hard to realize what an extraordinary development it is. In India, until the establishment of British supremacy, civil wars went on without cessation, but they were haphazard and disconnected happenings. One local ruler or another, abler or more ambitious than his neighbors, would establish his authority over an area of greater or lesser extent, and his successors would maintain the state so formed for several generations. When, however, they were ul-

timately overcome, the subjects of this state had never come to regard this area as their "motherland." Amid general indifference, it would become divided up or merged in another equally arbitrarily formed area, and its exact boundaries would soon be forgotten. Men fought for the love of fighting, from personal ambition, for loot, or from loyalty to a certain leader, family or clan, but never for the glory or aggrandizement of a geographical area personified as a distinct entity such as Britannia, La France, or Germania. Even such a well-marked geographical area as the Punjab, "the Land of the Five Rivers," never developed "a national consciousness." Similarly, in China, the world has never been troubled by the conflicting territorial ambitions of Sze-chwan and Kweichow, the rights and wrongs of brave little Honan, or the integrity of the frontiers of Shan-tung. No foreign prime minister has ever been moved to acclaim Honan as "sublime in the jaws of peril" and no disinterested foreign ecclesiastic has ever been inspired to pray, even for the briefest period, for Hu-peh as "a beacon of religious freedom."

In Europe, on the other hand, such states, with as little geographical justification as Portugal and Holland, have arisen and survived with practically unchanged frontiers for centuries. In Switzerland, three distinct races, speaking three distinct languages, have long come to consider themselves "a nation," while, more remarkable still, the artificial union, so late as 1830, of the Flemings, speaking a dialect of Dutch, and the French-speaking Walloons, has blossomed forth into the national consciousness of Belgium.

It is agreed that the Walloon-Fleming compound, under the name of Belgians, "joined the European family of Nations" in 1830. There is no agreement, however, as to precisely what is a nation in the special sense it has come to mean in Europe. "Nationalism," admits Sir John Marriott, "is a singularly elusive term." He proceeds to define it as "the sentiment which binds together a body of people who have certain things in common and not infrequently induces antagonism between one body of persons so connected and another." This antagonism, often violent and always quite irrational, is generally its most outstanding characteristic. Professor Alfred E. Zimmern insists that it is always "related to a definite home country." But this "home country" need have no natural

boundaries, he admits, and may indeed be inhabited by foreigners.

Although enjoying in essentials the same civilization and professing the same religion, the peoples of Europe have gradually lost their sense of unity inherited from the days of the Roman Empire. This sense of unity, so strong in China, has been replaced by "national consciousness" linked with geographical areas. Once national consciousness had developed in England, France, and elsewhere, civil wars ceased to be hazardous and disconnected happenings. Defeats had to be avenged while victories inspired ambitions to achieve even greater victories. In this way, whatever its result might be, each war paved the way to the next.

Unlike their contemporaries in India and China, the inhabitants of Europe were able to indulge in civil wars with each other with relative impunity. In China, any weakening of the central government through internal disorder was inevitably followed by invasion by the wild nomadic peoples ever waiting beyond the Great Wall for an opportunity to attack. In India, the penalty for continual civil war was a succession of invasions through the Himalayan Passes by the warlike peoples of Central Asia, each of which resulted in orgies of slaughter and rapine. It was not until 1945, however, that the inhabitants of Europe paid the natural penalty for civil war. Only three times after the downfall of the Roman Empire had Europe been menaced by primary warfare on a grand scale. Each time, the danger was averted, not so much through the effort of Europeans themselves as by good fortune.

The first occasion was at the close of the Dark Ages, when Europe was threatened by invasion and conquest by the Saracens. Spain was conquered and France invaded, but the Saracens were repulsed at Poitiers by Charles Martel, and, moreover, as a result of dissensions among the Saracens themselves that as a consequence of this setback, the danger passed.

The second occasion was in the middle of the thirteenth century, at the very time when European medieval civilization had reached its peak. This time, the danger came from the formidable military machine that the great Mongol conqueror Genghis Khan, had recently created out of the wild horsemen of the Steppes and with which he had overthrown, in turn, the great Empires of China and Persia. After his death, his grandson, Batu, set forth in 1237 with a great army, mainly

composed of mounted archers, but supported by a corps of Chinese engineers, equipped with portable catapults for hurling not only great stones but masses of flaming naphtha, material for creating artificial smoke screens, and, probably, gunpowder for use in mines in siege work. Against this great highly-organized barbarian host, the peoples of Europe could put in the field only feudal armies, individually brave but totally without discipline. In addition, they were, as usual, divided amongst themselves by a dozen petty civil wars, and, in particular, by the long-drawn-out conflict between the Holy Roman Emperor and the Pope which had just reached a climax.

The great campaign of 1241-1242 is of particular interest at the present time since it was fought over precisely the same area as the recent campaign of 1944-1945 between the *Wehrmacht* and the Red Army, was aimed at the same objectives, and came to rest approximately on a line along which now runs the so-called "Iron Curtain" that marks the present boundary between Europe and Asia. It provides also a classic example of primary warfare, the issue at stake being whether the extremely complex Christian medieval civilization should be replaced by the simple nomadic culture of an Asiatic Kharnate. Upon the one side were the clansmen of High Asia, wonderful horsemen and splendid archers but otherwise illiterate barbarians, and upon the other the civilization that had already produced such men as Hildebrand and Innocent III, Frederick II and St. Louis, Dante and St. Francis of Assisi, and from which the civilization of the Modern World was destined to evolve.

The Mongol plan of campaign was Napoleonic in conception, design and execution. First, the powerful Russian principalities were crushed in one great battle and Kiev was razed to the ground. Then, the chivalry of Germany and Poland under the Duke of Silesia, including a strong contingent of the famous Teutonic Knights under their Grand Master himself, was annihilated at Liegnitz, chiefly through the scientific use of an artificial smoke screen throwing the Christian chivalry into confusion. Breslau, which held out so heroically seven hundred years later against the Red Army, was taken and sacked. Next, another wing of the Mongol host overthrew a great crusading army with a backbone of veteran Knights Templars under the King of Hungary near Tokay on the Sayo River. Like the Teutonic Knights, the Knights Templars,

mostly French, perished to a man on the field, but in vain. Buda was stormed and sacked. City after city was captured and their inhabitants methodically massacred. Advanced units of the invaders had reached Neustadt on the Danube and had penetrated to the Adriatic within a day's march of Venice, when the death of the Great Khan in far off Karakoram on the edge of the Gobi Desert caused the recall of the Mongol armies. Thus was European civilization saved from destruction before the gravity of the peril had become generally known. "There can be no doubt," writes Harold Lamb, "that the Mongols could have destroyed the Emperor Frederick and his armies and the French chivalry led by the hapless St. Louis might have fared no better. The European monarchs had proved themselves incapable of acting together. The Europeans had shown themselves helpless before the maneuvering of the Mongol cavalry divisions directed by a strategist like Subotai."²

It was indeed a fortunate miracle for the peoples of Europe that the death of the Great Khan caused the recall of the conquering Mongol army which, in the space of two years, had not merely defeated but annihilated three great European armies and had overrun nearly all Europe east of the line now marked by the Iron Curtain.

It is noteworthy and, perhaps, significant that the foreign policy of the medieval Mongols aimed at surrounding their dominions with a zone of devastated and depopulated territory, broken up into helpless satellite states, an aim which has become the most prominent feature of the foreign policy of their successors, the Union of Soviet Socialist Republics. With this end always in view, the Mongols dealt with conquered populations in accordance with an unwavering procedure. When a city was taken, whether it was situated on the shores of the Yellow Sea or on the banks of the Oder, the inhabitants were brought forth, tied together with ropes, and were then divided into three groups, the men in one group, the women in another, and the children in a third. Skilled craftsmen and attractive women were then carefully selected for dispatch to Central Asia, there, if they survived the frightful journey, to labor as slaves or serve as concubines. Lastly, the remainder were forced to kneel with outstretched necks in rows down which the Mongol soldiers proceeded, expeditiously slicing off with their

² Harold Lamb, *The March of the Barbarians*, London: Hale, 1941, p. 162.

long sabers the bent heads which were then gathered in neat pyramids, not in a spirit of vainglory, but to facilitate the work of the scribes whose duty it was to supply the Great Khan with accurate statistics of the carnage.

It was this procedure, methodical, deliberate, and business-like, rather than the scale on which the Mongol massacres were carried out, which filled contemporary Christians with speechless horror. In medieval Christian Europe, wholesale homicide on an unlimited scale was considered justifiable, in fact meritorious, if religious issues were involved—witness the Albigensian Crusade above mentioned. Wholesale homicide was also considered excusable, if committed on the lower orders by a high-spirited prince in a temporary fit of irritation—witness the sack of Limoges by the Black Prince, later to be mentioned. In other words, pious zeal was held to justify anything, including every variety of gratuitous cruelty, in which to do them justice, the Mongols seem rarely to have indulged. Brutal actions, *prima facie* crimes, were also held to be pardonable lapses in Christian Europe, if committed by persons of gentle birth in a frenzy of blind emotion, or as Field Marshal Montgomery would express it, when “seeing red.” But the coldblooded slaughters of these terrible pagans from High Asia were beyond the comprehension of the medieval Christian. He could no more understand such passionless wickedness than he could withstand the disciplined sweep of those slit-eyed Oriental horsemen in their armor of lacquered leather, shooting with their deadly bows. Good fortune and not his own exertions saved him, but not until all Europe between the Volga and the Oder had been devastated with ruthless efficiency.

Not until seven centuries had elapsed was their fatal passion for civil war again to bring the European peoples so close to the brink of irreparable disaster. In the sixteenth and seventeenth centuries, Europe was menaced by the Ottoman Turks, since their conquest of the Byzantine Empire, in 1453, firmly established at Constantinople. The Turks succeeded in conquering the whole of the Balkans, Greece and Hungary, and twice besieged Vienna. The peoples of Europe were as hopelessly divided against each other as ever; at moments of particular peril, the Sultans generally found the Kings of France happy to render them assistance and support so that the Emperor might be distracted from French aggression on the Rhine. The Turks possessed a formidable army—thanks to the help of

Christian renegades, their artillery was the best in the world at the time—but the resources of the Turkish Empire were never adequate for the task of conquering Europe, although with but a slight variation of fortune the area overrun and devastated by their armies might have been very much greater. In fact, it probably would have been but for the strategic ability and courage of John Sobieski, King of Poland, who turned back the Turkish army at the gates of Vienna in 1683.

From one point of view, it is perhaps a pity that the Sultans' armies failed to penetrate deeper into Europe. The appearance of a corps of janissaries at Magdeburg in 1631 might have served, as nothing else would have done, to bring the frenzied and fratricidal Catholics and Protestants to their senses.

Apart from these unrelated and isolated examples of primary warfare most of the wars which have been waged in Europe since the Dark Ages must be classified as secondary wars. Under this general heading must be grouped the innumerable petty local wars such as that in the fifteenth century in the West of England between Lord Bonville and the Earl of Devon, or that in the North of England between the Percies and the Nevilles, and such a great civil war as that of the Roses; the struggles of the Guelphs and Ghibellines in Italy, and the various civil wars of religion from the Albigensian Crusade to the Thirty Years War. In the same group must be included such so-called nationalist wars as the Hundred Years War (according to Professor Trevelyan “the first European war that can be called National”) which arose from the resolve of the half-French Kings of England to assert their claim to the throne of France. Except for the numbers engaged, the amount of bloodshed, and the extent of the devastation and suffering caused, there is no real distinction between this long-drawn-out feud between Edward III and his successors with the cousins, the Kings of France, and the local broils of the Nevilles and the Percies. Both, for example, are utterly distinct from the wars of the kings of Castile, undertaken to drive the Moors out of Spain, or the ceaseless campaigns of the Teutonic Knights to defend the Eastern frontiers of Christendom from the Slavonic heathen.

After the Thirty Years War ended in 1648, religion ceased in Europe to be a reason—one is tempted to write pretext—for civil war. In many respects, this great struggle is remarkable, apart from the special barbarity with which it was waged

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by both sides. Long before its outbreak in 1618, it was widely felt that a great political explosion was imminent. It began inconspicuously in Bohemia, so inconspicuously that it was not at first realized that the expected upheaval had at last begun. Once started, the original issues were quickly forgotten. In the history books, the Thirty Years War is labelled a war of religion, a war between the Roman Catholics and the Protestants. Yet, the so-called Protestant cause derived its main inspiration and support from the leading Catholic Power, France, then ruled by that Prince of the Catholic Church, Cardinal Richelieu; throughout, the two chief Catholic potentates in Europe, the Pope and the Emperor, were at bitter enmity and most of the fighting was done by godless mercenaries drawn from every country in Europe. The result achieved, after thirty years fighting, during which some fifteen million people perished by violence, starvation or disease, was an agreement that the belief of each individual concerning the eternal truths upon which his or her salvation depended should be decided by the predilections or whims of the prince whose subject he or she should happen to be—a very commonsense practical solution, but one difficult to justify by any system of theology. The best that can be said for the Thirty Years War is that it ended more or less in a *status quo* settlement, so that Europe was spared the orgy of revenge which would have inevitably followed a complete triumph by either side.

Far more important than the actual terms of settlement was the fact that this futile and murderous struggle brought about the tacit conclusion that, thenceforth, religious differences must never again serve as a reason for civil war. This conclusion did not, indeed, prevent civil wars continuing to break out, but it profoundly altered their character. In the Thirty Years War had finally perished that sense of European unity, inherited from the days of the Roman Empire, which had persisted throughout the Middle Ages. Europe had by now become permanently broken up into a number of more or less self-contained national territorial entities, sovereign and irresponsible. The old practice of electing a ruler from the supposedly ablest member of a governing family had died out: even the imperial crown of the Holy Roman Empire had become, in fact if not in theory, subject to the lien of the House of Hapsburg. The various crowns of Europe passed by heredity and with them the right to rule various territories, the title to many of these

being subject to dispute. Since no court or means of arbitration existed to settle such disputes, the only means of settlement was by war. By a curious reasoning process, it was universally agreed that the prince who went to war and won had established his right while the prince who proved not strong enough to retain the territory in question thereby lost his right to inherit it. Thus, when the Prussian Army proved stronger than the Austrian Army, Frederick the Great was held to have established his right to Silesia; when the British Fleet proved stronger than the French Fleet, Britain's claims to Cape Breton or St. Vincent were considered to have been placed on a proper legal footing.

Although "national consciousness" was developing gradually all over Europe, in general the inhabitants of disputed territories still took but a languid interest as to which prince had inherited or achieved by conquest the right to govern them. Thus, the German population of Alsace soon settled down contentedly under Louis XIV, and the inhabitants of Silesia seemed to have raised no objection to transferring their allegiance from the House of Hapsburg to the House of Hohenzollern.

A ruler who disturbed the peace of Europe by asserting by force of arms some real or imaginary claim incurred thereby no general odium. Shakespeare expresses the public attitude very clearly when he makes Hamlet soliloquize concerning the war started by the Norwegian prince "to gain a little patch of ground" from Poland not worth five ducats a year. Far from condemning Fortinbras as a public nuisance, a warmonger, a *Kriegshetzer*, Hamlet meditates complacently that he is:

"A delicate and tender prince
Whose spirit, with divine ambition puff'd,
Makes mouths at the invisible event,
Exposing what is mortal and unsure
To all that fortune, death and danger dare,
Even for an egg-shell."

Until very recently, a unique importance was attached to the civil wars of Europe. It was agreed that even those European civil wars, the causes of which were more than usually inadequate and that most signally failed to achieve lasting results of any kind, were nevertheless momentous and glorious in a way no wars between Asiatic peoples or between American

states could possibly be. At the end of each, everyone was certain that its glorious memory would go down the ages undimmed to eternity—and, in fact, the glorious memory of each endured undimmed until the outbreak of the next. Looking back, it is now possible to realize these civil wars of Europe were important for only two reasons. Firstly, they led naturally and inevitably to the present plight of Europe. Secondly, during the last two centuries of their course, they gave rise to an entirely novel method of warfare which has come to be known as "civilized warfare."

Now that disaster, to a greater or lesser extent, has overtaken all the peoples of Europe, there is no longer any interest in the details of these civil wars. So naturally did each follow its predecessor that they hardly merit individual study. Probably a new nomenclature will ultimately be adopted to indicate their essential unity. From the Dark Ages down to the end of the Thirty Years War, in 1648, civil war in Europe was continuous, local wars and private feuds never ceasing and large scale political explosions, such as the Hundred Years War and the Hussite War, taking place from time to time. After 1648, minor warfare gradually ceased, but a series of general upheavals began, each separated from the other by several decades of uneasy tranquility.

First came the series of wars waged to frustrate the ambition of Louis XIV to dominate Europe. These may be grouped together as European Civil War No. 1. There followed the War of the Austrian Succession—European Civil War No. 2. The Seven Years War may be labelled as European Civil War No. 3, and the War of 1775-83, in which Great Britain survived an attack by a European coalition but lost her American Colonies, European Civil War No. 4. The Revolutionary and Napoleonic Wars were European Civil Wars Nos. 5a and 5b, respectively. The Crimean War, although it did not involve all Europe, may be counted European Civil War No. 6, because it had the important result of bringing to an end the military supremacy which the Czars had achieved in 1815. The group of wars between 1864 and 1871, which established the German Empire as the Leading European Military Power, may be labelled European Civil War No. 7. If the Balkan Wars of 1877 and 1912 be dismissed as minor European conflicts with Asia, represented by the decadent Turkish Empire, Europe may

be said to have enjoyed peace for the unprecedented spell of 41 years after the establishment of the German Empire in 1871.

The adoption by historians of a nomenclature such as this would be no startling innovation. It would express what was once the universally recognized distinction between primary warfare, that is to say, warfare between rival civilizations, and warfare between peoples sharing a common civilization, that is to say, in essence, civil warfare. Throughout the Middle Ages, the essential unity of Christendom was acknowledged without question. The feuds of the Hohenstaufen, Valois, Plantagenet, and other princely houses, were never seen out of proportion: they aroused interest and excitement which, however, rarely prevented a feudal army from disbanding when the fixed period of military service due from each vassal to his lord had expired. Such conflicts were internal affairs, never to be confused in importance with the primary duty of defending the borders of Europe from the attacks of the enemies of Christendom.

At the present time, it appears to many to be a minor outcome of the 1939-1945 War that the old university city of Königsberg, the former capital of East Prussia, and the birthplace and home of that great European thinker Immanuel Kant, should have become the submarine base and arsenal of Kaliningrad. But, to his contemporaries, the most creditable episode in the life of Henry of Bolingbroke, afterwards King Henry IV of England, was the term he served in 1390 as a volunteer with the Teutonic Knights defending East Prussia from the Lithuanian and Polish heathen.³ At best, warfare between Christians was considered a regrettable happening, attributed by theologians to man's fallen nature. Such warfare the Popes and Church Councils did their best to discourage, restrict and humanize. Regulations, seldom observed it is true, were laid down from time to time for the conduct of the civil wars of Christendom. Thus, in 1139, the Lateran Council denounced the newly invented crossbow as a weapon "hateful to God and unfit for Christians." But this prohibition only extended to the killing of fellow Christians. The Council expressly permitted the

³ It is interesting to note that Henry took part in 1390 in the first recorded siege of Vilna, the scene of so much subsequent fighting between the peoples of Europe and the inhabitants of the Eurasian hinterland. The same issues were at stake when Charles XII of Sweden captured the city in 1702, when Napoleon fought near here in 1812, when Hindenburg won his great victory of Vilna in 1915, and when Manstein made his famous tank thrust through the city in 1941.

use of the crossbow for the killing of infidels, a meritorious work in which even weapons "hateful to God" were permissible.

Faint traces of this outlook are perceptible even at the present day and account for the fact that the hanging of Field Marshal Keitel appears to be a more regrettable event than the hanging of General Yamashita, and the bombing of the refugees at Dresden more repugnant than the dropping of the atom bomb on Hiroshima.

Popularly, and even officially, the war of 1914-1918 has come to be known as the First World War. This is a plain misnomer. It began as a European civil war in no essential way different from any of its predecessors. On the one side were the peoples of Central Europe and on the other side the chief Atlantic Powers, Great Britain and France, allied to the Russian Empire. It remained a civil war although two non-European Powers joined in: the Japanese Empire at the beginning in order to seize the opportunity to acquire without resistance the German possessions in the Pacific, and the United States at the end mainly for the purpose of safeguarding the huge loans which she had made to Great Britain and France to buy munitions. The participation of Japan remained throughout strictly limited, while as soon as the interests of the Wall Street financiers had been secured by victory, the American public turned violently against all intervention in European affairs, disowned President Wilson and all his works, and insisted on the passing of neutrality legislation designed to prevent the United States from again being drawn into another European civil war.

The so-called First World War should, therefore, be classified as European Civil War No. 8; and the war which broke out in 1939, after a precarious interval of twenty-one years, was really only a continuation of the struggle which it was believed had ended on the 11th of November, 1918. It is submitted, therefore, that the war 1914-1918 should be labelled European Civil War No. 8a, and the war 1939-1940 European Civil War No. 8b.⁴

The war 1940-1945 really merits the title of the First World War since during it, for the first time in history, continents came into conflict rather than mere countries. On the one side

⁴ The celebrated recruiting poster would have been more aptly worded, "What did you do in E.C.W. 8a, Daddy?"

were arrayed the British Empire, North America and the great Eurasian Power, first established in the Middle Ages by the Mongol Conqueror, Genghis Khan, and recently re-established by Lenin under the name of the Union of Soviet Socialist Republics. On the other side was arrayed the greater part of Europe led by the Third Reich, joined, in 1941, by the Japanese Empire.

The war of 1940-1945 was not conducted in accordance with the code of warfare subject to which for the preceding two centuries Europeans had been accustomed to wage war upon each other. Neither the Americans nor the Eurasians of the Soviet Union had any regard for what Europeans of past generations had been pleased to consider permissible in warfare. Throughout, they fought in accordance with their own views on this subject. Further, when the end at last came, there was no select gathering of European statesmen such as had met together after every European civil war to decide with dignity and decorum the form the latest peace settlement should take in accordance with (in Europe) long recognized principles. For the first time in history, the peoples of Europe found themselves saved the trouble of coming to decisions concerning their own affairs since everything of importance had already been decided for them in Washington and Moscow.

This book is not concerned with the woes of the present generation of Europeans. The existing situation is merely the natural consequence of reckless indulgence in civil war. The penalty came near to being claimed when the Saracens overran Spain and invaded France in the eighth century. The danger was yet more acute in the thirteenth century, when the Mongols conquered all Europe up to a line now marked by the "Iron Curtain." Finally, during the sixteenth and seventeenth centuries, the Turkish Sultans were a serious menace to European civilization; their armies twice penetrated to Vienna and their fleets commanded the Mediterranean. All these dangers passed away, but in 1939 Nemesis was heedlessly mocked once too often.

The civil wars of Europe are of interest here because, during their final phase, there was gradually established a code subject to which it was tacitly agreed Christian neighbors should wage war upon each other. The code won general acceptance in Europe about the beginning of the eighteenth century—that is to say, little more than two hundred years before 1939, the

date of the outbreak of Europe's latest and possibly last civil war.

The fundamental principle of this code was that hostilities between civilized peoples must be limited to the armed forces actually engaged. In other words it drew a distinction between combatants and non-combatants by laying down that the sole business of the combatants is to fight each other and, consequently, that non-combatants must be excluded from the scope of military operations.

The credit for formulating the code based on this fundamental principle cannot be attributed to any one statesman or political thinker or, in fact, to any one nation in particular. With surprising rapidity, we find that it had become tacitly accepted by the nations of Western and Central Europe in the conduct of their wars with each other around the beginning of the eighteenth century. Warfare conducted according to this code became known as "civilized warfare." Its acceptance never extended beyond Europe or countries not under European influence, but for two hundred years it was acknowledged by all the European States. In the main it was complied with and, when infringed, was paid the tribute of indignant denials. After holding sway for two centuries, it was repudiated more swiftly and more mysteriously than it had been accepted.

Here, then, are two facts requiring explanation. How was it that the European nations so quickly and easily at last came to a belated decision to accept a code limiting the brutalities of warfare, after having for so long practiced warfare in its most primitive and unrestrained shape? And how was it that the European nations, after having practiced warfare in accordance with this code for two hundred years and having scorned all peoples who refused to acknowledge it as self-confessed barbarians, reverted, within the space of a decade, without apparent hesitation or misgiving, to what was, in the opinion of Captain Liddell Hart "the most uncivilized method of warfare the world has known since the Mongol devastations."⁵

⁵ Hart, *The Revolution in Warfare*, p. 75. The reader may hesitate less to accept this unwelcome view of the methods of warfare adopted in 1940 if he is reminded that Mr. Lloyd George in 1934 declared that he regarded Captain Liddell Hart as "the highest and soundest authority on modern war." In the opinion of Field Marshal Wavell, "Captain Liddell Hart is the most stimulating writer, by far, that we have." Mr. Winston Churchill declares that "Captain Liddell Hart has immensely stimulated technical and professional thought," and Field Marshal Montgomery acknowledges that in regard to many of his own tactical ideas, "actually, in many cases the inspiration has come from your writings." The opinion expressed above by Captain Hart cannot, therefore, be lightly dismissed.

CHAPTER IV

"CIVILIZED WARFARE"

(The First Phase)

As above remarked, the introduction of Christianity and its acceptance by the peoples of Europe did not have that immediate influence on the conduct of war which, theoretically, one would expect. It was not, indeed, until the rise of chivalry many centuries after the peoples of Europe had become Christian that any amelioration in the conduct of war became perceptible.

The origins of chivalry may be traced back to those dark times when Europe was being ravaged by various barbarian invaders after the collapse of the Roman military system. Originally, the orthodox attitude of the devout Christian to the horrors taking place around him was to withdraw from the world and pray, since it was agreed the Last Day was near at hand and Christ himself has forbidden resistance to evil. When, however, it appeared that the Last Day was being unaccountably delayed, while prayer seemed to have surprisingly little influence on the doings of the Huns, Magyars, Saracens, and Vikings who were devastating Europe, the idea naturally dawned of opposing the onslaught of these invaders which was inspired only by a love of fighting or a desire for loot by a resistance inspired by an unselfish resolve to defend the suffering Christian faithful. There thus gradually arose the ideal of the Christian Warrior. Naturally and logically, the duty to defend weak and helpless Christians from infidel oppressors gradually became extended to include a duty to defend the weak and helpless generally from oppression. "Chivalry had two outstanding marks," says Professor R.B. Mowat, "two things that were as its essence: it was Christian and it was military."

Chivalry, as it ultimately developed, became a collective term embracing a code of conduct, manners, and etiquette, a system of ethics and a distinctive "Weltanschauung" (philosophy of life) as the Germans call it. For our purpose, its principal importance is that, when the code of chivalry was adopted as the code of the military caste in all the European states, it provided a common bond between them. Whatever his nationality, the European knight professed the code of the Chris-

tian warrior. With his reputation as such to maintain, a European knight could not afford to use the capture of a prisoner of the same class as himself as an opportunity to indulge his resentment against a helpless enemy either in the manner of an Assyrian King, by flaying or impalement, or, in the present-day manner, by a mock-trial followed by hanging. Sadism could no longer freely masquerade as moral indignation, as in the brave days of Samuel the Prophet: a prisoner whatever his nationality, so long as he was a member of the European ruling class, had to be treated when a prisoner with honor and courtesy.

From nursery days, everyone is familiar with Froissart's account of the capture of King John of France by the Black Prince at Poitiers, in 1356. Today, the story seems so wildly incredible that it reads more like a fairy story for children than an event of sober history. Having described with characteristic gusto the details of the fighting, Froissart tells us the Black Prince made inquiries of those about him, asking whether anything was known of the fate of the King of France, and was informed that he must either be slain or captured "since he had maintained his place in the forefront of the battle." The Prince, therefore, sent the Earl of Warwick and Lord Cobham to discover the truth, and at last they found the King of France surrounded by a crowd of warriors angrily disputing which one had actually captured him. "The two barons, dismounting, advanced to the royal prisoner with reverence and conducted him in a peaceable manner to the Prince of Wales." Thus brought to the Prince, the latter "made a low obeisance to him and ordered wine and spices to be brought which, as a mark of his great affection, he presented to the King himself." After being treated with every honor and courtesy, the King was brought in due course to England where "mounted on a white horse richly caparisoned he rode through the streets of London with the Prince of Wales on a little black palfrey by his side. The Palace of the Savoy was first appropriated to his use; but soon after his arrival he was removed to Windsor Castle, where he was treated with the greatest possible attention and hunting, hawking, and other amusements were provided for him."

One can well imagine how King Assurbanipal would have piously evoked, "Asshur, Belit and Ishtar, the great gods, my lords" at such sinful weakness. An Iroquois war chief would

have deplored in picturesque language the folly of letting slip such an opportunity for time-honored recreation at the torture-stake, while a modern editor would certainly declaim volitionally in headline English: "Black Prince Goes Soft: War-Criminal Escapes Trial."

Such criticisms, however, inflict a grave injustice on the memory of the Black Prince who can be taken in all respects as fairly representing the chivalrous ideal. To another member of the European military caste, he was ever a model of unflinching generosity and courtesy. But he was never soft: those not of gentle blood could expect little indulgence at his hands. When he lost his temper, which he did infrequently, the consequences were terrible. In 1370, for example, after he had worked his will in a fit of temper on Limoges, the unfortunate city must have looked as if "strong formations of our Bomber Command" had recently visited it.

To summarize, it can be said that the influence of the ideals of chivalry had considerable influence on the conduct of warfare in the Middle Ages, although this influence was generally restricted in practice to dealings of the ruling classes with each other. At the least, it made impossible such demonstrations of primitive crudity as that, for example, of Sapor I, King of Persia, who having taken prisoner the gallant but thick-headed Roman Emperor, Valerian, used his unfortunate captive as a portable footstool to assist him in mounting his horse. Chivalry, as a code of behavior and courtesy, survived the Middle Ages and even persisted during the Wars of Religion, as witness Velasquez's famous picture "The Surrender at Breda."¹

Some may, perhaps, be unable to repress a cynical doubt whether any human being ever succeeded in appearing quite as gracious and courtly as Velasquez has represented the Spanish Commander-in-Chief, Ambrose Spinola, as appearing on that celebrated occasion in 1625. Spinola was a fervent patriot and a devout Catholic, and, in his eyes, the Dutch Governor of Breda and his officers were obstinate heretics and national enemies. At this moment of triumph, which was to prove to be the final episode of a ferocious war that had lasted an entire generation and had been waged with almost unparalleled brutality by both sides, could Spinola have really greeted his defeated enemies with such amiability and courtly grace?

¹ See comment in J. U. Nef, *War and Human Progress*, Cambridge: Harvard University Press, 1950, pp. 139-140. (See picture, below, p. 196.)

The point is quite without significance. Admittedly, Velasquez was not an eye-witness: he painted the scene twenty years later on instructions. Very possibly, he idealized the bearing of Spinola. What is significant is that this picture proves how the Spanish Government preferred that this triumph of Spanish arms should be remembered by posterity. Clearly, neither Spinola nor the Spanish Government were obsessed with dread lest their memory should be stained by the charge of having pampered a defeated enemy. Velasquez's picture proves conclusively how Spinola liked to imagine he appeared on this memorable occasion. It may not portray exactly what occurred, but it certainly portrays what contemporary opinion considered should have occurred. In the same way, some of the happenings proudly described in the press and on the radio at the downfall of the Third Reich in 1945 may not have occurred exactly as described, or may have been offset to some extent by individual acts of courtesy and chivalry, report of which was deliberately suppressed. Here again, these descriptions have a significance quite independent of their veracity or accuracy: they prove what the British and American leaders of opinion and their publics desired to believe was taking place.

Chivalry may be described as the product of Christian idealism. What is known as "civilized warfare" arose quite independently. It may be described as the product of belated common sense. At long last, the fact dawned on the human understanding that it would be for the benefit of all in the long run if warfare could be conducted according to tacit rules, so that the sufferings, losses and damage inevitable in warfare might be reduced and restricted, so far as possible. At times, no doubt, the stronger side in a war might feel aggrieved at having to overcome the weaker side by slow and costly methods, because an obviously swift and easy method had been debarred as uncivilized; at times a victor might feel frustrated of the full enjoyment of victory by being precluded from dealing with complete freedom with a prostrate enemy. But it was realized that such acts of self-restraint contributed to the establishment of a general security shared by all, since no European state was so supremely strong that its people could feel indifferent to the possibilities which a change of fortune or a shift of the balance of power might bring about.

Civilized warfare, as waged in Europe for some two hundred years down to the present generation, cannot be dated

earlier than the beginning of the eighteenth century; but a somewhat similar form of warfare had arisen in Italy in the fifteenth century and flourished for a short time. In one of his essays Macaulay describes at length how this came about. In brief, the rich burghers and merchants of medieval Italy were too busy making money and enjoying life to undertake the hardships and dangers of soldiering themselves. So they adopted the practice of hiring mercenaries to do their fighting for them, and, being thrifty, business-like folk, they dismissed these mercenaries immediately after their services could be dispensed with. Wars were, therefore, fought by armies hired for each campaign. Writing in the security of Victorian England, Macaulay pours scorn on the result. "War," he says, "completely changed its character. It became left to the conduct of men who neither loved whom they defended nor hated those whom they opposed. Every man came into the field impressed with the knowledge that, in a few days, he might be taking the pay of the power against which he was then employed. The strongest interest and the strongest feelings concurred to mitigate the hostility of those who had lately been brothers in arms and who might soon be brethren in arms once more. Their common profession was a bond of union. Hence it was that operations, languid and indecisive beyond any recorded in history, marches and countermarches, bloodless capitulations and equally bloodless combats make up the military history of Italy for nearly two centuries."

To the discerning reader today, this result seems wholly excellent. For the first time, soldiering became a reasonable and comparatively harmless profession. The generals of that period maneuvered against each other, often with consummate skill, but when one had won the advantage, his opponent generally either retreated or surrendered. It was a recognized rule that a town could only be sacked if it offered resistance: immunity could always be purchased by paying a ransom fixed according to its importance. As a natural consequence, no town ever resisted, it being obvious that a government too weak to defend its citizens had forfeited their allegiance. Civilians had little to fear from the dangers of war which were the concern only of professional soldiers. The latter, however, continued to run considerable risks since, although death by weapons of war were happily rare, yet complete ignorance of the rudiments of camp sanitation often brought disaster. An army which was

compelled to remain stationary for any length of time ran the risk of being decimated by plague.

This relatively satisfactory state of military affairs was brought to an abrupt end by the invasion of Italy by Charles VIII of France, in 1494. Thereafter, Italy became the prey of armies of foreign invaders, French, Germans, Swiss, and Spaniards, who recognized no rules of warfare of any kind. Thereafter, a succession of wars raged throughout the Peninsula, waged with the most primitive ferocity and resulting in enormous loss of life and irreparable damage.

For roughly two hundred years (1500 to 1700) unrestricted civil wars continued to rage throughout Europe, on occasion attaining new levels of barbarity and ferocity, as during the revolt of the Netherlands against Philip of Spain or during the Thirty Years War in Germany. The evolution of civilized warfare was roughly concurrent with the long reign of Louis XIV of France; at least, no traces of it can be detected at the beginning of his reign in 1643, and it appears fully established at his death in 1715. No credit for this development, however, can be attributed to Louis personally. On the contrary, one of the most deliberate and least excusable barbarities in European history was perpetrated by his armies as late as 1689 when the Palatinate was systematically devastated in order to create an *Ödlandsgürtel* (waste-land-zone) along the French frontier. "Brûlez bien le Palatinat" ("Burn the Palatinate thoroughly"), ordered his Minister of War, Louvois, and, from the old imperial city of Speyer on the upper Rhine as far north as the Moselle, a thickly populated area 100 miles long and 50 miles wide was first pillaged and then laid waste with fire and sword.

But already a great and mysterious change had come over public opinion: a new spirit was abroad. Forty years before, any of the generals of the Thirty Years War would have carried out the work of devastation according to orders as lightheartedly as a modern air marshal but, in 1689, the French general ordered to loot and destroy Heidelberg reported to Louvois, "I must represent to His Majesty the bad effect which such a desolation may make upon the world in respect of his glory and reputation."

Condemnation of the devastation of the Palatinate was, indeed, general and the indignation it aroused contributed not a little to the ultimate frustration of Louis' ambition to dominate Europe with his armies. Yet, strange to say, it was largely

the domination achieved by France over European civilization—in art, literature, dress, manners and thought—indirectly brought about the acceptance of new standards of warfare.

Fundamentally, this development probably originated as a reaction to the Thirty Years War, popularly regarded as a war of religion. It was as if men said, "We have seen the sequences of religious enthusiasm: to fanatical zeal we owe the massacres of Magdeburg and Drogheda and Central Europe being depopulated by a third. It is trying to be saints and has led to all these horrors. Let us, as an alternative, strive to be gentlemen!"

Having experienced in the seventeenth century the sequences of religious ardor and unreflective credulity, the eighteenth century inclined naturally toward restraint, moderation, and doubt. The eighteenth century is itself the Age of Reason. Poise, balance, and urbanity were the qualities most admired. The new code of polite manners bade a gentleman from becoming unduly excited about anything. Even in religion, extreme fervor was condemned. "enthusiasm" became a term of reproach as John Wesley later to discover.¹² Muddled thinking was despised: clarity was preferred to profundity. A limitless capacity to believe without a reason and to hate without a cause was not then, as at present, prized as an essential quality of the good citizen. In all things, a gentleman was required to maintain his self-control in proportion. From this, it followed naturally that wars could not be waged for vague undefined objects in a frenzy of emotion regardless of whether the suffering and loss occasioned were grotesquely out of proportion to any benefit that could possibly result. The wars of the eighteenth century were fought for limited objects—for example, a border province or a national possession—and they were fought with limited means; that is to say, the means employed to wage them were limited according to a for long unwritten but generally recognized code. Warfare conducted in accordance with this code has come to be known as *civilized warfare*.

As stated in the last chapter, this code was based on a simple principle, namely that warfare should be the concern only of the armed combatants engaged. From this follow

¹² In a church at Edgware, Middlesex, is a memorial tablet to a lady who died in 1705. The many virtues ascribed to her is, "She was Religious without Enthusiasm."

corollary that non-combatants should be left entirely outside the scope of military operations.

From the acceptance of this principle, all later developments followed naturally and logically. If non-combatants must be treated as outside the scope of military operations, it necessarily followed that an enemy civilian did not forfeit his rights as a human being merely because the armed forces of his country were unable to defend him. So long as he took no part in the hostilities, he became entitled to claim from the enemy combatant forces protection for his life and property. If he suffered as a consequence of hostilities, it must only be indirectly owing to regrettable and unavoidable mischance—for example, as when the inhabitants of a town are killed by missiles fired to compel its garrison to surrender. The sufferings of civilians must never be made a means by which the course of hostilities can be influenced—for example, when, in accordance with the common practice of barbarous warfare, a country is deliberately laid waste to induce its rulers to surrender.

Other and important developments following from the acceptance of the above principle are, first, that a combatant who surrenders, by so doing ceases to be a combatant and acquires the status of a non-combatant, subject only to a liability to be detained by his captors during the continuance of hostilities. Secondly, a combatant who has become incapacitated through wounds or disease ceases to be a combatant and acquires certain privileges—privileges which were accorded by civilized states long before they were formulated and formally recognized at the Geneva Convention.

In regard to prisoners of war, in 1785, in a treaty between the United States and Prussia, the principle was first expressed and formally confirmed that a prisoner of war should be treated by his captors as a person under military discipline transferred by his capture from the command of his own countrymen to the command of his captors. This treaty expressly provided that the captor should treat prisoners of war as troops transferred to his command. It follows from the acceptance of this principle that (to quote Article 27 of the Brussels Declaration of 1865 which formally confirmed what had long been the established practice): "A prisoner of war shall be subject to the rules and regulations in force in the captor's army." Article 45 of the Geneva Convention re-affirms the principle in practically the same words. "Rules and regulations" includes, of

course, all regulations in force in the captor's army relating to trials by court-martial. In short, a captor is bound in all cases to give a prisoner of war a fair trial, the definition of "a fair trial" being what the captor himself considers a fair trial for his own personnel.

In passing, it may be noted that this principle was the principle which, beyond all others, was most flagrantly violated by the war-crimes trials which began in 1945.

Obviously, the principle that non-combatants must be left outside the scope of operations was capable of different interpretations. Admittedly, a commander was justified in refusing to permit the presence of civilians to impede his operations against the enemy armed forces; consequently, a town could be bombarded regardless of the safety of the inhabitants in order to prepare an attack upon its garrison. On the other hand, it was admittedly barbarous to bombard a town outside the theatre of war, in the hope that the suffering of the inhabitants would affect the morale of the enemy combatant forces. In every case, the test was what was the *real* intention behind the act in question. Inevitably, occasions arose when genuine differences of opinion could exist. But the code was safeguarded by the knowledge that violation, even if profitable at the moment, would bring ultimate retribution and the weakening of the general security enjoyed by all.

So long as the civil wars of Europe remained the private business of Europeans, evasions of the code supported by pettifogging pretexts were rare. Repeatedly, the question arose whether future security should be sacrificed to immediate advantage. What triumphed on each occasion was not sentimental humanitarianism, as an ancient Assyrian war lord or a present-day air marshal would contend, but far-sighted realism. It was not until 1940 that this question was answered with an emphatic affirmative.

The inhabitants of Great Britain have long been convinced that not the least of the many qualities which raise them above their neighbors on the European mainland is an inborn devotion to "playing the game." Waging war by terrorizing the enemy civilian population is equivalent to hitting below the belt in boxing. It is, therefore, remarkable that the only persistent refusal to comply with the new code of civilized warfare should have come from the British Admiralty. Long after civilized methods had been accepted in land warfare, in sea

warfare the British insisted upon using their naval superiority to bring pressure on an enemy by bombarding coastal towns. Beginning with Dieppe, virtually destroyed in 1694 by a ruthless bombardment, few French ports escaped attack by British fleets during the next hundred years, although no large scale invasion in any case followed. In the war of 1812-1814, the coasts of America were similarly ravaged and several important towns, notably Washington and Baltimore, burned by landing parties, the openly expressed intention being to instil into the American people "a will to peace." Again, in the Crimean War, British fleets in pursuance of the same policy bombarded Russian ports not only in the Black Sea, as ancillary to the military operations going on round Sevastopol, but in the Baltic and White Seas.

The official justification for these acts, which in land warfare would have been regarded as incontestably barbarous, was that Great Britain, lacking the military resources to fight on land great continental states like France or Russia, could only carry on a war by coastal raids. Britain's war aims were strictly limited and, once the enemy had been sufficiently inconvenienced, a frame of mind was created which resulted in a peace being negotiated on reasonable terms.

The underlying reason, however, for the refusal of Great Britain to conform with the code of civilized warfare adopted on the Continent was that, so long as the British Navy commanded the sea, the British people had no reason to fear a reversion of warfare to the methods of primitive times. If defeated in a war, a continental people faced the prospect of being dealt with in accordance with the standards then prevailing. To a continental people, therefore, it was a matter of vital concern whether these standards were civilized or barbarous. The people of Britain on the other hand, enjoyed the comforting knowledge that, so long as their Navy ruled the waves, defeat at the worst would only mean a withdrawal for the time being from the Continent. In fact, until the conquest of the air, Great Britain could hardly be regarded politically as a part of Europe; as a consequence of her sea supremacy, she enjoyed the position of a sixth continent. So happily situated, there was lacking any urgent reason to sacrifice the convenience of the moment to insure security.

Few episodes in the life of Queen Victoria are better known than the story of how she cut short Mr. Balfour when he was

describing to her the dismay caused by the initial reverses sustained by British arms at the commencement of the South African War. "Please understand," said the Queen, "there is no one depressed in this house. We are not interested in the possibilities of defeat: they do not exist."

The story is generally quoted as an example of the indomitable spirit of the old lady, or as an example of British tenacity in adversity, or as an example of British arrogance. But the Queen was being neither brave, boastful, nor arrogant. She was merely reminding the cabinet minister of a plain political fact which had existed from the time Great Britain had achieved naval supremacy. Until the time, some fifteen years later, when mankind won final mastery of the air, the possibilities of defeat for Great Britain, in the sense these possibilities existed for every other European state, simply did not exist.

Other European nations less happily situated resolutely resisted the temptation to revert to primitive methods of war, a temptation at times almost irresistible. In the long and doubtful struggle, for example, known as the Seven Years War, a swift and easy triumph was offered by such reversion. On the one side in this war was Prussia, a small state exposed to attack from every direction across its straggling artificial frontiers. On the other side, were ranged the three great military powers, France, Austria and Russia. In accordance with the accepted principle of civilized warfare that hostilities must be directed solely against the combatant forces of the enemy, the armies of the Allies crossed the Prussian frontier and, relying on great numerical superiority, offered battle in turn to the Prussian Army moving swiftly from one threatened point to another. Taking advantage of interior lines and the fact that his enemies neglected to act together, Frederick the Great managed to achieve a succession of brilliant victories and wonderful recoveries until, after seven years, war-weariness at last put an end to the unequal struggle.

From the start, however, it must have been obvious to the able leaders of the Allied Armies, the Austrian Generals Daun and Loudon and the Russian General Soltikov, that Frederick the Great could be easily overcome without a single major battle with the Prussian army. The allies were possessed of numerous and highly trained forces of light cavalry. All that was necessary to bring about Frederick's speedy downfall was to pour across the open and exposed frontiers of Prussia small

units of Hungarian hussars and Russian cossacks with instructions to destroy everything which could be destroyed by means of a torch or a charge of gunpowder. The Prussian army would have been helpless in the face of such tactics, designed to turn Prussia into a desert. Without supplies of food and material for the manufacture of munitions and the whole country overrun, except for the ground actually occupied by the Prussian army, no other course would have been open to Frederick but submission within the space not of seven years but of seven months.

The advantage of such tactics were as apparent in 1756 as they were to be in 1940. The drawbacks were equally apparent. On both occasions, the question was whether a swift and easy triumph would be too dearly purchased at the price of creating a precedent which, once created, would inevitably be followed in later wars with the result that mankind would live again under the shadow of a possible outbreak of primitive warfare, with all the horrors this entails.

In 1756, when the memories of the Thirty Years War and devastation of the Palatinate were still comparatively fresh, it was decided this price was too great. In 1940, after civil war in Europe had been conducted by civilized methods for over two hundred years, the contrary decision was arrived at. When, in the fullness of time, the penalty of this latter decision can be assessed from experience, it will be possible to express an opinion whether greater wisdom and foresight was displayed in 1940 than in 1756.

In the Middle Ages, the code of chivalry had been readily accepted throughout Europe because the ruling classes in all countries accepted the teaching of the Catholic Church and acknowledged the spiritual supremacy of the Pope. Except politically, Europe was a single unit, subject to the same movements and developments. In the same way, in the eighteenth century the new code governing the conduct of warfare was readily accepted because the ruling classes in the leading European countries had become linked by a similar outlook—by similar tastes, manners and standards—originating at the Court of Louis XIV. Edward Gibbon, the historian, thus speaks of “universal politeness” radiating from France. No other European nation could attempt to challenge the leadership of the French—the Germans at the time were backward, disunited, and impoverished as a consequence of the Thirty Years War, the

English were insular in outlook and divided against each other by political and religious differences, the Spaniards were hidebound and decadent, the Italians degenerate, and the Russian barbarous. Although the French political dominion over Europe was brief—the French fleet was virtually destroyed at Cape La Hogue and the French army suffered a series of crushing disasters, being driven headlong out of Germany at Blenheim, out of Italy at Turin, and out of the Netherlands at Ramillies—the ruling classes of Europe continued to model themselves in all but military matters on French standards of taste and conduct. A member of the European ruling class whatever his nationality, prided himself first and foremost on possessing the outlook and manners of a European gentleman—which in practice meant the outlook and manners of a French gentleman. As such, he acknowledged an obligation to treat those whom he regarded as his social equals, irrespective of their nationality, as gentlemen and expected to be so treated by them in return. In Germany, and still more in Russia, members of the ruling class felt themselves far more closely bound to the ruling classes of the other European countries than to their own countrymen who were their social inferiors. Frederick the Great, for example, prided himself far more on his capacity to write French verses and on the fact that he was welcomed on an equal footing in intellectual circles in Paris than for his military achievements. The fact that one of the most brilliant of these—his victory at Rossbach—was won over a French army in no way disturbed on either side the friendship which existed between himself and a number of leading French poets, philosophers, mathematicians and scientists. Macaulay speaks disparagingly of Frederick's contemporary Horace Walpole as “the most Frenchified Englishman of the 18th century,” and complains that even his literary style was “deeply tainted with Gallisms.” The interest which Walpole took in “the fashions and scandals of Versailles” particularly arouses Macaulay's indignation. In all this, however, Walpole was only characteristic of his time. His social equals in Germany habitually spoke French, using German only to give directions to underlings. In Russia, a veneer of French culture completely separated the ruling class from the bulk of the population.

From this it naturally followed that the officers of the various European armies, when they came in contact, should treat each other with elaborate courtesies in accordance with the

manners of the time. A capitulation, especially, was an occasion for an exchange of courtesies. Thus, as early as 1708, when the citadel of Lille was surrendered by Marshal Boufflers after a terrible and costly siege, not only was the French army permitted to withdraw with the honors of war, but the gallant Marshal, before being allowed to return to France, was entertained at a dinner given in his honor by his conquerors, the Duke of Marlborough and Prince Eugene. Already, therefore, a stage had been reached in the conduct of civil warfare in Europe as far removed, on the one hand, from King Sapor mounting his horse from the back of a captive emperor as, on the other hand, from Field Marshal Keitel being handed over to a hangman and then buried, rather shamefacedly, in a nameless grave. A sense of unity, irrespective of nationality, created by a common pride in the profession of arms, made exhibitions of barbarous primitive emotion unthinkable. Far from seizing an opportunity to inflict vengeance for a defeat, it became a point of honor to pay generous recognition to the courage and skill of an enemy in adversity. Frederick the Great's plan of campaign in 1762 was completely disarranged by the unexpectedly obstinate resistance of the minor fortress of Schweidnitz, due to the skill of a French engineer named Gribeauval serving in the Austrian army who, we are told, "understood countermining like no other." The siege cost the Prussians the lives of 3,000 men and occasioned Frederick himself the greatest personal hardship. But when the fortress at last surrendered, Frederick's first act was to invite Gribeauval to dinner in order to compliment him on the superiority which he had shown to the Prussian engineers:

"No terms are too good for you!" was Admiral Keith's reply, in 1800, when Marshal Masséna at last indicated his willingness to surrender Genoa after having held the city against overwhelming odds until complete exhaustion of his supplies made further resistance impossible. It seems to have occurred to no one that this defense, which largely contributed to the final outcome of the campaign, deserved personal retribution. Marshal Davout, indeed, in 1814, was threatened with a trial after his surrender of Hamburg for having "rendered the name of Frenchman odious" by his brutal treatment of the inhabitants during the siege. This threat, however—which was never seriously pressed—came from his own countrymen and political enemies, the French Royalists. Had this trial

taken place, the court would, of course, have been French. Whatever may have been his deserts and in spite, no doubt, of the views of the inhabitants of Hamburg, Davout received nothing but courtesy from his foreign enemies.

The story is well known of how, at the opening of the battle of Fontenoy in 1745, the French officers greeted their advancing enemies with the polite invitation, "Gentlemen of the English guards, fire first!" In the same strain is the story of how Captain Savage of the *Hercules*, at the battle of the Isles des Saintes, stood upon his quarter deck, solemnly raising his cocked hat as each French ship drew abreast to deliver her broadside. These stories and many similar may be fictions, but at least they prove what public opinion at home desired to believe took place on the battlefield. Even if acts of courtesy took place in war today, the report of them would be suppressed for fear of outraging public opinion.

Perhaps the most significant of these stories is that of James Wolfe, afterwards the conqueror of Canada. When serving as a Major in the army of the Duke of Cumberland in 1746, Wolfe was ordered at the battle of Culloden by his superior officer, none other than the commander-in-chief himself, to pistol a wounded Highlander on the ground. He could refrain only at the peril of his military career to which he was wholeheartedly devoted. Wolfe, nonetheless, indignantly refused, with the remark that he was a soldier and not an executioner!

Some may suspect this story originated as a piece of Jacobite propaganda, but it was at once widely accepted and repeated, not as a tribute to the invincible repugnance rightly felt by His Royal Highness The Duke of Cumberland for (as we should say) pampering the enemy, but as demonstrating how firmly James Wolfe maintained his high standard of professional honor. It is hard to believe that the sentiments which animated James Wolfe and most of his European contemporaries in 1746 could have died out entirely by 1940. At the latter date, of course, the spiritual descendants of the Duke of Cumberland abounded in all the belligerent armies and, in particular, in the air forces. It would be interesting to learn whether they were often embarrassed by the scruples of the spiritual descendants of James Wolfe? If so, by what means were such scruples, so prejudicial to good order and discipline, overcome? In the Mongol invasion of 1241, enormities were perpetrated by barbarous nomads of High Asia, and in the Thirty Years War by

godless mercenaries; in the War of 1940-1945, enormities were frequently committed by young gentlemen of sheltered upbringing and blameless character. That incidents prejudicial to good order and discipline of the kind associated with the name of James Wolfe have now become seemingly so rare speaks volumes for the efforts of the emotional engineers working behind the scenes. The attitude toward James Wolfe's conduct held by his contemporaries contrasts strangely with the present-day view that it merely indicates that his reactions had not been scientifically conditioned by effective propaganda before he set forth for the campaign.

The obedience demanded from a professional soldier in the eighteenth and nineteenth centuries was by no means unqualified, so far as officers were concerned. The respective roles of the soldier and the politician were then clearly distinguished. The definition of war as "an extension of policy by force" later formulated by Clausewitz, had already won general acceptance, and policy was admittedly the sole concern of the politicians. A gentleman who had accepted a commission in the army or navy was, consequently, held in honor bound to take part in any war upon which the executive government might decide to embark. He could not pick and choose: the rights and wrongs of a war were not his concern. As Macaulay put it, "A man who belongs to the army only in time of peace—who appears at reviews in Hyde Park, escorts his sovereign with the utmost valor and fidelity to and from the House of Lords and retires as soon as he thinks it likely that he may be ordered on an expedition—is justly thought to have disgraced himself." James Wolfe, of course, no more concerned himself with the ethics of the various campaigns in which he took part than did in our own day Lord Roberts, when he planned and directed the operations to bring about the subjugation of the Boer Republics, in 1900, or did Admiral Raeder, when he planned and directed the occupation of Norway in 1940. It was without the least sense of personal guilt that Sir Charles Napier reported cheerfully to his government, in 1843, the successful conclusion of a war of naked, unashamed aggression against the Ameers of Scinde with the single word "Peccavi"—"I have Scinde."²

² Sir Charles Napier was under no illusion as to this war. Previously he had recorded in his diary, "We have no right to seize Scinde, yet we shall do so, and a very advantageous, useful, humane piece of rascality it will be." See E. Thompson and E. T. Garratt, *British Rule in India*, London: Macmillan, 1934, p. 336.

On the other hand, the manner of conducting a war, whether just or unjust, was recognized to be the sole concern of the professional soldiers conducting it. A soldier did not feel himself bound to commit promiscuous homicide as and when directed—like a modern blockbuster or underworld gunman. So long as warfare in Europe continued to be warfare between Europeans, it was conducted in accordance with a recognized code in the interpretation of which no civilian interference was tolerated.

How jealously the exclusive right to interpret this code was guarded may be illustrated by one episode from the career of General Charles George Gordon. In 1863, he had been lent to the Chinese Imperial Government to direct the repression of the Tai-Ping Rebellion and, having captured Soo-chow, had accepted the surrender of a number of rebel leaders. To his horror, these were promptly beheaded by the Chinese civil authorities. It is recorded that General Gordon, beside himself with rage, went in search of the mandarin whom he considered responsible, revolver in hand, declaring that his own professional honor and reputation had been indelibly stained by the execution of his prisoners of war.

It need hardly be remarked that latitude to exercise private judgment was only conceded to officers. Among the rank and file what may, for convenience, be labelled the Light Brigade spirit, prevailed. The attitude of the gallant Six Hundred which so aroused Lord Tennyson's admiration arose from the fact that the least disposition to ask the reason why was discouraged by tricing the would-be inquirer to the triangle and flogging him into insensibility. The same spirit prevailed in the ranks of all the European armies and was the product of the same simple but effective treatment.

Of more practical importance than the code of good manners which it imposed on the combatants was the security given to civilian life and property by the introduction of civilized methods of warfare. Not only was the massacre of civilians no longer left to the judgment of individual commanders, but pillage, a recognized practice in the seventeenth century, was gradually replaced by requisitions for which payment was made. "The Austrian Armies," writes Captain Liddell Hart, "were particularly restrained, even to the point of handicapping their own operations by extreme scrupulousness in abstaining from

any demands on the civilian population."³ In the Prussian Army, the regulations against looting were so strict that, after the disaster at Jena in 1806, it is recorded that the retreating Prussians endured without fires the bitter cold of an October night in central Europe rather than seize civilian stores of wood which lay to hand but for which they were unable to pay.

Civilized warfare reached its furthest extension during the last half of the eighteenth century. The principles and practice of civilized warfare were worked out by a number of writers during the period and, in particular, by the Swiss jurist, Emeric de Vattel, in 1758, in his famous work *The Law of Nations, or the Principles of Natural Law as Applied to the Administration of National Affairs and of Sovereigns*. At the time he wrote, much of what he said must have seemed platitudinous to a degree, but to us it has come to appear grimly prophetic. Not only does Vattel point out that, if barbarous methods of warfare are adopted, the enemy will do likewise, so that the only ultimate result will be to add to the horrors of war; not only does he argue that "harsh, disgraceful and unendurable peace terms" will only be fulfilled so long as the defeated enemy lacks the means to repudiate them; Vattel actually condemns the use by rulers at war of "offensive expressions indicating sentiments of hatred, animosity and bitterness" since such expressions must ultimately stand in the way of a settlement on reasonable terms.

At a first glance, this would appear a condemnation of the whole system of modern war propaganda. But, of course, Vattel had no means of conceiving even dimly one of those imposing collections of fabrications and calumnies which it has now become the first business of nations at war to put out concerning each other. Probably, he merely had in mind one of those witty but ill-advised jibes which Frederick of Prussia was in the habit of circulating against his brother monarchs, and which, later, he so often had cause to regret as being an unnecessary impediment in the way of negotiations for a new understanding.

Vattel would have been astonished to learn how exasperating a later generation of Europeans would find his book. In justice to him, it should be said that, from his style, it is clear that he was under no illusion that he was propounding any-

³ *The Revolution in Warfare*, p. 44.

thing original or profound. When his contemporary, Hogarth, drew the "Idle and Industrious Apprentices" series, he did not imagine that they illustrated a new discovery that thrift and diligence (aided by marriage to the only daughter of one's employer) are more likely to lead to prosperity than indolence and improvidence! In the same way, Vattel realized that he was only stating what everyone who troubled to think about the subject knew as well as himself. His modest ambition, when he took his pen in hand, was to set forth a number of recognized truisms more clearly and concisely than they had ever been set forth by anyone else previously.

It is only when read in the light of the developments which the future held in store, that Vattel's book seems so ominously prophetic. But in no passage is there indicated any apprehension of such developments. On the contrary, the great progress which had been made towards establishing a code of civilized warfare not only filled him with complacency, but clearly inspired in him the hope that this progress would lead finally to the abolition of civil warfare in Europe altogether. Civil warfare being the prized prerogative of the European kings, it would have been dangerous for most of Vattel's contemporaries to have expressed the opinion that warfare in any form was barbarous. But as a Swiss subject, Vattel was able to deal with the question frankly. He is prepared to admit that war may at times serve the useful purpose of settling disputes between nations. Nevertheless, he points out that war can only serve this purpose if, in the first place, it be conducted by methods which do not leave a legacy of hatred and bitterness, and, in the second place, if the victors be not so carried away by their success as to impose by violence harsh and unreasonable terms, since this inevitably prepares the way for another war.

Vattel's complacency may be found exasperating by many readers today, but it cannot be said to have been unjustified by the circumstances of the time when he wrote. The progress made by European civilization during the preceding hundred years had been truly amazing. Already, the times of the Thirty Years War, when soldier and bandit were practically synonyms and every civilian knew that good fortune alone protected him from being overtaken by horrors of every imaginable shape, seemed remote. The fate of Magdeburg might have been the fate of any European city in 1631. True, civil warfare still con-

tinued to burst forth at intervals in Europe, but, like the practice of duelling, it had become so circumscribed by rules that its worst consequences were eliminated or reduced to a minimum. The possibility that civil warfare might entail the penalty of invasion and conquest by a non-European power seemed to have passed away forever. The Turkish Empire now only gave cause for alarm lest its dissolution might disturb the European balance of power; the formerly semi-Asiatic state of Muscovy appeared successfully to have adopted European civilization—the court of Catherine the Great was to all outward appearances a reproduction of Versailles; the recent exploits of the English and French in India seemed to indicate that a wise Providence had ordained a special law of nature by which the smallest number of European troops was superior to an Oriental army however numerous; and across the Atlantic, there seemed no reason to doubt that the European colonists in America would always follow submissively European precept and example in all things—did not such men as George Washington and Benjamin Franklin comply in all respects with the highest European standards in conduct and outlook?

To such an eminently reasonable representative of the Age of Reason as Emeric de Vattel, it would barely have occurred as a conceivable possibility that the inhabitants of Europe, having once adopted the standards of civilized warfare, would ever again revert to the standards of the Thirty Years War which permitted any enormity to civilian life and property but still maintained a sort of rough code of professional etiquette between the opposing leaders. A reversion to the even more barbarous standards of a far more remote time, when the primary objective of warfare was to attack the enemy civilian population and when captured enemy generals would be slaughtered as such by their captors, would have seemed to him utterly inconceivable. When Vattel wrote, the nations of Europe had achieved such pre-eminent military supremacy that non-European nations seemed only to count in world affairs as subjects for exploitation by Europeans. The occasions when European civilization was threatened with destruction by invaders from Central Asia, who had penetrated unchecked to the Oder and the Adriatic, were so far past as to have become unreal and mythical. Russia, Europeanized by Peter the Great, had been accepted as a member of the European family of nations, and had spread her sway across Asia to the Pacific Ocean.

In the latter half of the eighteenth century, the most perverse pessimist could not have foreseen that the Europeanized Russia of Peter was doomed to vanish utterly and to be replaced by the long dissolved Eurasian Empire founded by Genghis Khan resurrected in a new but even more formidable shape, not only non-European in origin, outlook and organization, but avowedly hostile to traditional European civilization.

No such nightmares disturbed reasonable men in the Age of Reason. The rising tide of complacency in that happy period reached its high-watermark in the passage written in 1770 by the Comte de Guibert quoted in the introduction to this book.

"Save in combat," declares the Comte proudly, "no blood is shed: prisoners are respected." In short, a temporary midway position had been reached between Gilgal and its Prophets sharpening his knife, on the one hand, and Nürnberg with its collection of foreign hangmen, on the other.

"Towns are no more destroyed," continues the Comte, "the countryside is no more ravaged." Again, the contrast is striking between, on the one hand, Magdeburg, in 1631, with Tilly's soldiers rushing through the streets, hacking down men, women and children in a frenzy of slaughter, and, on the other hand, Dresden, that night in 1945, when an enemy air fleet arrived over the city "at the timely moment" when it was crowded with refugee women and children.

"Conquered peoples," concludes the Comte, "are only obliged to pay some sort of contributions which are often less than the taxes which they pay to their own sovereign."

For countless generations, the civilian population of Europe had patiently borne the consequences when "some delicate and tender prince whose spirit with divine ambition puff'd decided to battle with some equally delicate and tender prince across the frontier, occasionally at the risk of his own skin but invariably of theirs. For the first time, the result of such wars could be awaited with indifference. The actual fighting would be done by long-service professional soldiers recruited from the dregs of the population—the scum of the earth as the Duke of Wellington frankly described them—guaranteed from acting otherwise than as machines by a ferocious discipline enforced by repeated flogging, led by officers who under no circumstances would forget they were gentlemen first and officers afterwards. If one's prince managed to win, one could applaud his glorious triumph loyally, even if one derived no

benefit therefrom. If he lost, there was no occasion for despair. Even a change of rulers would make little practical difference to the average citizen, who generally transferred his allegiance in such circumstances without perceptible emotional disturbance.

If the Age of Reason did not endure long enough to bring about the abolition of civil warfare in Europe, it at least bestowed for a few decades upon the civilian population of Europe a rather passable substitute for peace.

We have now described the manner in which warfare lost much of its barbarism and took on civilized traits. We shall next trace the steps by which it degenerated into the brutalities of the second World War, in which the imagined atrocities of the first World War were duplicated in grim fact daily and on a vastly greater scale. Three main steps in this process may be noted:

(1) The so-called Peoples' Wars fought by large conscripted armies of recruits. These brought into being the propaganda or emotional engineering which was needed to produce the deep emotional fears and hatreds essential to deeds of mass valor and gross brutality.

(2) Total War, or large scale attacks on the persons and property of civilians. The first extensive example of this departure from the European code of civilized warfare was the strategy of Lincoln and Grant in the American Civil War, most dramatically executed by General William T. Sherman in his Georgia campaign. But this did not greatly affect European warfare until the first World War and did not become general European practice until after the British "Splendid Decision" of 1940 and its implementation by the British air force beginning on May 11, 1940.

(3) The War-Crimes Trials following 1945 which assured that in future wars defeated leaders and generals would be shot, hung or otherwise liquidated. These trials rendered it inevitable that wars will hereafter be waged with unprecedented savagery. If leaders will be killed by the victors after defeat, then they must spare no atrocity in warfare which promises to stave off defeat.

In the next chapter, we shall consider the character of Peoples' Wars, their contribution to the rebarbarization of warfare, and the refusal of Europeans to follow the precedent of Lincoln, Grant, and Sherman down to 1914.

CHAPTER V

"CIVILIZED WARFARE"

(*The Second Phase*)

WITH the outbreak of the French Revolution civil warfare in Europe entered upon a new phase.

The epoch of Kings' Wars ended that happy interlude when wars were undertaken by kings against kings with small professional armies for objects which their subjects were neither expected to approve nor to understand. Then began the epoch of Peoples' Wars, that is to say wars which, if rarely undertaken with any regard to the people's benefit, were waged by an increasingly large proportion of the adult male population.

The introduction of Peoples' Wars produced two marked changes in the character of warfare: (1) the appearance of large mass-armies, raised by conscription, thus making wars much more savage and lethal; and (2) the rise of the science of propaganda or "emotional engineering" needed to induce these conscripted armies to fight with enthusiasm and with the hearty support of the populace at home.

The best treatment of the first phase or result of this change is presented by the eminent American expert on warfare, Mr. Hoffman Nickerson, in his book, *The Armed Horde*.¹ The loss of life, even as early as the wars of the French Revolution and Napoleon, vastly exceeded those of any previous wars, at least so far as those killed on the field of battle are concerned. Only 5,000 English had been killed during the whole year 1704, during which the conclusive battle of Blenheim had been fought. By the time of Dumouriez and Napoleon, wars had become mass-murder on the battlefield. Napoleon was especially prodigal of men in battle. He lost about 40,000 in the Battle of Borodino alone. Moreover, disease in these mass-armies, with little provision for sanitation and medical treatment, killed even more than gunfire. While, at first, the rules of civilized warfare were continued in Peoples' Wars, there is no doubt that this new type of war contributed greatly to the increase of savagery, ferocity, and mortality in warfare. One

¹ New York: Putman, 1940.

reason for the increase of ferocity was the necessary parallel development of propaganda or emotional engineering.

Kings' Wars were fought by small armies of professional soldiers obeying orders: Peoples' Wars were fought by huge armies of conscripted civilians who, in order to fight with enthusiasm, had to be led to imagine that they knew for what they were fighting. The production, quickly and effectively, of a war psychosis thus became an imperative necessity. To meet this need the modern science of *emotional engineering*, as Aldous Huxley has labelled it, was gradually evolved.

In the Kings' Wars of the eighteenth century, the man in the street was not required to fight and he was preserved from suffering therein more than a minimum of loss and inconvenience. There was no occasion, therefore, to trouble him with explanations of the reasons for such wars. In the Peoples' Wars, which began in 1792 and have lasted to the present day, the man in the street was compelled to do the fighting and it became, therefore, no longer impudent presumption on his part to inquire the reason. As a consequence, it became necessary to work out a technique by which plausible reasons could be found on short notice to meet any contingency or, as an alternative, a technique by which a condition of public hysteria could be created in which any reason would be accepted as plausible. Thus was evolved the science of emotional engineering. To wage war, it had become necessary to generate hatred. Fear begets hatred. If the reasoning powers of the man in the street could be paralyzed by a sufficiently vivid portrayal of a real or imaginary danger, not only would his natural but inconvenient curiosity as to his rulers' doings be stifled but he would fight the better in a state of blind hatred. It soon became recognized that neither professional military pride nor an intelligent conviction of the justice of a cause was sufficient inspiration. Every man must "see red," as Field Marshal Montgomery frankly told his troops before they landed on the Normandy beaches on "D-Day." Carnot's *levée en masse*, in 1793, and the Dresden holocaust of 1945 are linked together by a series of developments, each following naturally and logically from the other.

During the Revolutionary and Napoleonic wars (1792-1815) the standards of European civil warfare suffered a marked decline. The citizen soldiers of the new French Republic who invaded the Rhinelands, Belgium, and Italy were inspired by

official proclamations about the prospect of riches as well as glory; in exchange for the blessings of liberty, the armies of France shamelessly plundered the countries which they overran. On the other hand, it must be admitted that a wide gulf exists between the looting of churches and art galleries, as during Napoleon's campaign in Italy, in 1796, and the systematic dismantling of factories, leaving a highly skilled industrial population dependent on them to starve in accordance with the Potsdam Agreement of a century and a half later. Stealing pictures and statues for the adornment of the victors' art galleries is one thing, but the stealing of essential machinery in order to impoverish the vanquished is quite another.²

After the restoration of order and discipline under the Napoleonic Empire, a marked return set in towards the high standards of the eighteenth century. Lapses, however, were not infrequent. Thus, in 1806, after the victory of Jena, the city of Lübeck was pillaged by the pursuing French troops; in 1808, Cordova was ruthlessly sacked by Dupont's army. On the other side, the most outstanding lapse was the celebrated sack of Badajoz, in 1812, described with such shame by an eye-witness, Sir William Napier. But from the perspective of nearly 150 years, something can be said in extenuation of the orgy of robbery, rape, and murder with which Wellington's troops sullied the laurels they had won in one of the most heroic and costly assaults in the annals of the British Army. The outrages were limited to the rank and file, were committed in hot blood by troops who had just sustained terrific losses, and stern repression swiftly followed. It is absurd to compare this comparatively isolated incident with either the habitual pillage and homicide in which European armies were wont to indulge during the Thirty Years War, or with the systematic and wholesale plundering of Germany, in 1945. In the latter case, the looting of the Duchess of Mecklenburg's castle by troops who, it is said, brought with them numerous lorries to remove the stolen property, may be taken merely as one episode which was, after two years, dragged to light only because the owner of the stolen property happened to be a near relation of His Majesty, King George VI. At present, we have no means of knowing how many persons who suffered similar treatment had to suffer in silence because they had no royal relative to whom they

² See Freda Utley, *The High Cost of Vengeance*, Chicago: Regnery, 1949.

could make complaint.³ Not without bearing on the subject, it is submitted, is the fact that, had the Duchess' castle been situated a few miles eastward along the coast, she would not only have been robbed but her throat would have been cut in addition.

In Napoleonic times, the nearest parallel to such doings is to be found in the campaigns of the French armies in Spain. Even in these, however, depredations seem to have been generally limited to churches and monasteries; civilians, except in exceptional circumstances, were rarely molested. The primitive theory that, on defeat, all the property of the vanquished is vested automatically in the victors had not yet been reaffirmed.

The contrast between the spirit of those times and that of Nürnberg has recently been recalled to us by an American scholar and publicist, the late DeWitt C. Poole: "Protesting to the Commons April 25, 1793, against the idea of pursuing to the death the regicides in France, Richard Brinsley Sheridan observed that to do so would be to embark 'on a war of vengeance,' and that would be to arrogate a right that belonged to the Divinity, 'to whom alone vengeance ought to be left.'"

What is most important about any war is the peace which it brings about. From this point of view, the wars of 1792-1815 maintained the highest standards. The moderation of the victors in 1815 appears to modern eyes simply superhuman. In accordance with Vattel's argument that only a peace based on reason and justice could be lasting, France was neither punished nor humiliated. Not only was no French territory annexed, but France was left in possession of the German territory on the left bank of the Rhine which had been conquered by Louis XIV. No restrictions were imposed on the French army or navy, and the indemnity demanded was paid without difficulty within a decade.

The shooting of Marshal Ney after Waterloo is considered by many as a blot on the memory of the Duke of Wellington, and it has even been suggested that it will even bear some comparison with the doing to death of Field Marshal Keitel, in 1946. This suggestion is, of course, too absurd to consider, and in justice to the Duke of Wellington it should be remem-

³ In Montgomery Belgium *Victors' Justice*, Chicago: Regnery, 1949, will be found a collection of the facts relating to this subject disclosed down to the date of publication. See also, Freda Utley, *op. cit.*

bered that Marshal Ney was shot by the Bourbon Government after a conviction by a French Court on a charge of treason against Louis XVIII—of which he was undeniably guilty. The most that can justly be said against the Duke of Wellington is that he did not bestir himself—as much as his admirers could wish—to save a gallant opponent from the spite of his political enemies by interfering with the course of French justice.⁴

Throughout the nineteenth century civil wars in Europe continued to be waged in accordance with the rules of civilized warfare without any noteworthy lapses. European Civil War No. 6, otherwise known as the Crimean War, may be taken as representative of European warfare during this period in its least harmful aspect. Characteristically, at its commencement, there was general bewilderment as to the aims for which it was to be fought: once fairly started, however, this difficulty was quickly remedied by declaring that "the continuance of the war was essential to the vindication of the national honor." In the peace treaty which concluded it, there is not a single reference to the question of the Holy Places in Palestine, the ostensible cause of the war. On the other hand, during its course each side had abundant opportunity to display the greatest courage and self-sacrifice: in fact, one episode, the Charge of the Light Brigade, has become symbolic of unreasoning heroism. The scope of the hostilities was strictly limited, damage to civilian life and property was negligible, and the casualties among the combatants, amounting to about a quarter of a million lives, was well below the average. No noteworthy or enduring political results were achieved and, consequently, European civilization as a whole sustained no serious setback. No legacy of bitterness was left behind: the terms of peace, if read carefully, merely indicate that Russia had had the worst of the fighting. In the Crimea itself, "a spirit of amity and relief prevailed when a salute of 101 guns denoted the end of the war. Reviews and races took the place of battles, the troops of the allies and the Russians mingled in friendly intercourse—or at least in the common delight of cheerful inebriation."⁵

It must, however, be again stressed that the rules governing civil warfare in Europe were held to have little or no applica-

⁴ Yet it must be confessed that much more has been said. See for example A. G. Macdonell, *Napoleon and His Marshals*, London: Macmillan, 1934, pp. 327-330.

⁵ C. E. Vulliamy, *Crimea*, London: Cape, 1939, p. 349.

tion to warfare between Europeans and non-Europeans outside Europe. Thus, Canton was savagely bombarded by a British fleet in 1839; the famous Summer Palace in Peking was deliberately sacked and burned by a Franco-British army in 1858; and, in 1863, the Japanese city of Kagoshima was ruthlessly destroyed by a fleet under Admiral Kuper as the readiest means of extorting trade concessions from the Japanese. In the Indian Mutiny, all restraints were quickly forgotten in a blaze of moral indignation and racial hatred. Colonel Neill hanged his prisoners wholesale; John Lawrence ceremoniously blew his captives from the mouths of cannon; and John Nicholson, while practicing both methods of disposal on the widest scale, was so oppressed by their inadequacy that he urged "the flaying alive, impalement or burning" of the mutineers and quoted the Old Testament copiously in support of inflicting on them "the most excruciating tortures."⁶

In passing, it should be noted that there was abundant precedent for the doing to death of a number of distinguished Japanese prisoners of war after the overthrow of the Japanese Empire with the aid of the atom bomb in 1945. The mock-trial in 329 B.C. of Bessos the Persian governor, who attempted to maintain the Persian resistance to the Macedonian invaders, affords perhaps the earliest precedent. Having undergone various tortures as a pre-conviction punishment, Bessos was condemned to a formal trial, Alexander the Great himself assuming the role of prosecutor. After delivering an eloquent speech demanding conviction, Alexander then assumed the role of judge, convicted the unfortunate Oriental and sentenced him to death by torture.⁷ Throughout the ages which have passed since the days of Bessos down to the present day, Europeans have always in practice refused to admit that any rules which might exist governing European civil wars had any application to Asiatics. The hanging, therefore, of a number of Japanese generals and admirals, in 1946, was not so revolutionary a departure from recognized practice as was the doing to death, during the same year, of professional European soldiers at Nürnberg.

⁶ See Hesketh Pearson, *The Hero of Delhi*, London: Collins, 1939, p. 211.

⁷ It is, perhaps, noteworthy that in place of paying a tribute to Alexander for proving himself two thousand years in advance of his time, his recent biographer, Arthur Weigall, comments on the trial of Bessos: "The fact that Alexander did not pause to consider what cultured Athens would think of his action is sufficient evidence of his unbalanced state of mind at this time."—Arthur Weigall, *Alexander the Great*, London: Butterworth, 1933, p. 262.

In Asia, methods of warfare have remained completely unchanged throughout the ages. In Africa, the native races have remained entirely uninfluenced by European rules and conventions, as the French from experience in Algeria, the British in the Sudan, and the Italians in Abyssinia, can eloquently testify. Only in South Africa, in the wars between the Dutch settlers and the British Empire, have European traditions in the main been followed although Captain Liddell Hart considers that the plan adopted by Lord Kitchener, in 1900, "of laying waste the countryside, burning the Boers' farms and removing the women and children to concentration camps in which some 25,000 died may be regarded as the inauguration of total warfare."⁸ Reluctantly granting this and admitting that similar charges could have been brought against Lord Roberts and Lord Kitchener for their treatment of the Boer partisans as those brought forty-five years later against Field Marshal Kesselring for his treatment of Italian irregulars and banditti, it must be conceded that the peace terms imposed on the Boers at Vereeniging complied in most respects with the requirements laid down by Emeric de Vattel in 1758 for a just and, therefore, lasting settlement. The subsequent careers of General Botha and General Smuts may be cited as conclusive proof of the truth of the great Swiss jurist's contentions.

In spite, also, of virulent hate propaganda, quite in the modern style, which raged in the British press against the Boers and in the press of the rest of the world against Great Britain, the struggle itself was conducted on the whole in accordance with European traditions. In fact, some of the episodes of this war have come to appear well nigh unbelievable. Thus when on March 6, 1902, Lord Methuen was defeated and captured at Tweebosch, his captor, De la Rey, at once sent him in the charge of his chief medical officer to the nearest British post since, owing to lack of medical supplies, he was unable to provide the attention which the British general's wound seemed to need. However useful Lord Methuen might have been to the Boers as a hostage, the health of a prisoner of war was too sacred to imperil by retaining him in captivity. The idea of making this capture an opportunity to avenge the deaths of Scheepers, Lotter, and other Boer partisan leaders, recently ex-

⁸ Hart, *The Revolution in Warfare*, p. 60.

ecuted by the British, does not seem even to have occurred to De la Rey's ingenuous mind.

In America, methods of warfare have varied roughly in accordance with the extent of European influence. In South America, with its large Indian and half-caste population, this influence has been weakest and, as a consequence, warfare has been little influenced by restraints. Thus, in the great war waged in 1865 against Paraguay by the Argentine, Uruguay, and Brazil, no pretense was long maintained of distinguishing between combatants and the civil population—the essential characteristic of civilized warfare as it had evolved in Europe—with the result that, after five years of desperate conflict, two-thirds of the inhabitants of Paraguay had perished.

In North America, European influence has always been predominant and one would, therefore, expect to find warfare conducted in North America more or less in accordance with European standards. The facts, however, do not confirm this reasonable expectation. Thus, the crowning episode of the war of 1812-1814 between Great Britain and the United States was when a British column of some 4,000 men was landed in Chesapeake Bay, marched inland to Washington, and there burnt the Capitol, the White House, and various other public buildings.⁹ It is difficult to reconcile this exploit—or many similar raids on the American coasts and the American raids across the Canadian border, in all of which the destruction of enemy property was the sole aim—with the European code. Compare, for example, General Haddick's raid on Berlin in the Seven Years of War when the Austrians carefully refrained from all violence to persons and property and withdrew after collecting a ransom from the City Council so moderate that Frederick was able to reimburse it at once out of his own private funds.

Inasmuch as the peoples living in the English colonies in America and later the citizens of the United States had experienced little contact with European civilized warfare as it had developed by around 1750, but had undergone long and severe experience with primary warfare against the American

⁹ Contemporary public opinion in Great Britain on this exploit was divided. *The Annual Register* condemned it roundly as "a return to the times of barbarism." *The Times*, on the other hand, commented complacently; "That ill-organized association (i.e.,—the United States) is on the eve of dissolution, and the world is speedily to be delivered of the mischievous example of the existence of a government founded on democratic rebellion."

Few predictions, even of *The Times*, have remained more signally unfulfilled!

Indians, it is not strange that the first serious challenge to the European code should come in the United States.

Most of the wars which the white peoples of North America carried on before 1861 were with the Indians and these were harsh and rudimentary primary warfare. Even when the colonists and American citizens fought against the French or the British down to 1812-1814, these European countries enlisted the aid of the Indians on a large scale and the warfare was primary, even here, to a very considerable degree. The Mexican War was a brief and relatively trivial skirmish conducted against a people on a lower mechanical and military level. Therefore, the peoples who were living in the United States at the middle of the nineteenth century had never experienced a major war conducted according to the European code which demanded that warfare be limited to military forces and that non-combatants and private property be respected. But they had a long background of desperate experience with primary warfare.

Hence, it is not surprising that the first great historic break with the European practices should take place in the bloody American Civil War (or "The War Between the States," as the Southerners still prefer to designate it). The military precedents in the United States were nearly all in the pattern of primary warfare. Even President Lincoln himself had fought briefly against the Indians and he exerted the dominant influence on Northern military policy and strategy.

It was the Northern or Federal armies which produced this historic reversion to primary or total warfare. The North had endured much more bellicose contact with the Indians and was much less influenced by Europe than the South. The latter was culturally a European colony until after the Civil War, Southern children were educated in Europe, and the Southern aristocracy travelled widely in Europe. Southern professional soldiers were very familiar with European military ideals. General Robert E. Lee, the military leader of the South, was the perfect example of Southern military chivalry in perfect accord with the European ideals of civilized warfare. It is for this reason that Professor T. Harry Williams accurately calls Lee "the last of the great old-fashioned generals." His "old-fashioned" trait was his fidelity to the European code of civilized warfare. While General John H. Morgan and other Southern raiders reverted to primary warfare in their attacks on the countryside

Lee was generally able to keep the Southern strategy in harmony with the European code.

There has been a traditional habit of saddling the responsibility for the Northern departure from civilized warfare on General William Tecumseh Sherman who conducted the famous march through Georgia from Atlanta to the sea, and continued along the Atlantic seaboard. This is not true. Sherman only executed the most dramatic and devastating example of the strategy which was laid down by President Lincoln himself and was followed faithfully by General Ulysses S. Grant as commander-in-chief of the Northern armies. That Lincoln determined the basic lines of Northern military strategy has been well established in such books as Collin R. Ballard's *The Military Genius of Abraham Lincoln* and T. Harry Williams' *Lincoln and His Generals*. Grant only efficiently applied Lincoln's military policy in the field. Professor Williams calls Grant "the first of the great moderns." He goes on to say that the "modernity of Grant's mind was most apparent in his grasp of the concept that war was becoming total and that the destruction of the enemy's economic resources was as effective and legitimate a form of warfare as the destruction of his armies." Hence, it is apparent that Sherman was only carrying out effectively the military policy which Lincoln and Grant had adopted. We may now turn to a brief survey of Sherman's accomplishments in this respect.

In the Spring of 1864, General Sherman was in command of the Tennessee sector far from the northern theater of war in Virginia. Unexpectedly taking the offensive, he pushed forward and captured Atlanta, one of the most important industrial centers of the South upon which the Confederates greatly relied for supplies of all kind. According to the accepted rules of civilized warfare in this exposed position two simple alternatives lay before him, either to retreat to his base before he was cut off or to prepare to withstand a siege in Atlanta. Sherman, however, saw no reason why he should be fettered by rules which it had pleased the European nations to adopt in their wars with each other. His first act was to expel the inhabitants of Atlanta from their homes. His second was systematically to destroy the factories and mills of the city so that they could never again serve the enemy. His third was to abandon the devastated city and to push on to the Atlantic coast across Georgia, laying waste the country as he went. "Until

we can repopulate Georgia, it is useless to occupy it," he wrote to headquarters. "I can make this march and make Georgia howl!"

Some of the richest lands of the South were devastated. Having captured and looted Savannah, Sherman turned northwards along the Atlantic coast to Charleston. He made no secret of his intentions: "I sincerely believe," he wrote General Halleck in Washington, "the whole United States would rejoice to have my army turned loose on South Carolina, to devastate that state in the manner we have done in Georgia." To which Halleck replied with admiring approval and the expression of a hope that "should you capture Charleston, by some accident the place may be destroyed." To this, Sherman responded with charming simplicity that the division assigned to occupy Charleston had a reputation "of doing their work pretty well." "The truth is," he added, "the whole army is burning with insatiable desire to wreak vengeance upon South Carolina."

To do him justice, Sherman was no simple-minded barbarian carried away by the heat of the moment; nor was he vindictive against a people who practiced Negro slavery. Before the Civil War he had criticized the extremists on both sides of the slavery question. On the eve of the War he wrote his brother that: "I recoil from a war when the Negro is the only question." Sherman was capable of formulating his principles and defending them on logical grounds. With regard to the destruction of Atlanta he wrote to General Halleck, "If the people raise a howl against my barbarity and cruelty, I will answer war is war. If the enemy wants peace, they and their relatives must stop the war." In answer to the protest of the Mayor of Atlanta, Sherman said: "You cannot qualify war in harsher terms than I will. War is cruelty, and you cannot refine it."

The crisp argument that war is war, which Sherman propounds with the pride of a discoverer, as justification for the destruction of Atlanta, is of extreme antiquity. On the Assyrian bas-reliefs the complaint often occurs, made more in sorrow than in anger, that the inhabitants of this or that city had "hardened their hearts" when threatened by an Assyrian army. Peace could so easily have been purchased by prompt surrender followed by payment of tribute consisting of all they possessed. Instead, it is recorded sorrowfully, they decided to resist and naturally suffered the consequences. The following passage from

King Asshurbanipal's annals illustrates what these consequences normally were: "The wells of drinking water I dried up: for a journey of a month and twenty-five days the districts of Elam I laid waste: destruction, servitude and drought I poured over them. The passage of men, the treading of oxen and sheep and the springing up of good trees I burnt off the fields."

In short, probably quite as justifiably as General Sherman, King Asshurbanipal could claim that his warriors had a reputation for doing their work pretty well.

But the discovery which Sherman may have regarded as original, in 1864, was of immemorial antiquity even in the days of King Asshurbanipal. The procedure which he advocated is neatly set forth in the book of Deuteronomy. The ancient Hebrews invading Canaan were directed "when they came nigh to a city to fight against it, to proclaim peace unto it." (Ch. 20. v. 10). If the offer of peace were accepted, the inhabitants were to be made slaves but not otherwise maltreated. But if they were so presumptuous as to refuse peace and "to make war on thee" (i.e., defend themselves), "thou shalt smite the males thereof with the edge of the sword but the women and little ones and the cattle and all that is in the city even all the spoil thereof, thou shalt take unto thyself."

Here is set out concisely the exact purport of Sir Arthur Harris' verbose broadcast to the German people on July 28, 1942, except, of course, the gallant Air Marshal naturally refrained from informing his hearers that slavery would be the price of accepting his offer of peace, while, as a herald of unrestricted bombing, he could not, like the ancient Hebrews of the 12th century B.C., profess any intention to discriminate between the adult male population and "the women and little ones."¹⁰

Though the Northern military policy of Lincoln, Grant and Sherman marked the first great example of the reversion to primary or total warfare and set a precedent for the "Splendid Decision" of the English on May 11, 1940, it provided no precedent or example for the liquidation of conquered enemy leaders by massacre, mock trials, or war-crimes trials which followed the second World War. In this respect, Lincoln and

¹⁰ On the contrary the Air Marshal informed the German people—"I will speak frankly to you about whether we bomb single military targets or whole cities. Obviously we prefer to hit factories, shipyards and railways. But those people who work these plants live close to them. Therefore we hit your homes and you." What could be more frank?

Grant followed faithfully in the chivalric attitudes of Europe, a procedure best exemplified by Grant's treatment of Lee after the Southern forces had surrendered at Appomattox.

The story of Grant's famous meeting with Lee to discuss the terms upon which the Southern Army would surrender reads today like a fairytale fit to be placed alongside Froissart's story of the capture of the French King by the Black Prince at Poitiers. The terms were expressly framed to provide for the termination of hostilities with as little humiliation for the vanquished as possible. In brief, they stipulated that the Southern Army should simply disband and each man return to his home, the officers giving their parole for themselves and their men and retaining their side arms and horses. Characteristically, Lee requested only that all ranks be permitted to retain their horses and, equally characteristically, Grant made this concession without haggling. Later, when the politicians at Washington began to scream wildly against the "pampering" of a defeated enemy and to demand that Lee should be tried for treason, Grant pointed out that the Southern Army had surrendered on definite terms and that, so long as these terms were observed, Lee could not be tried for treason. "Good faith as well as true policy dictate that we should observe the conditions of the convention," Grant wrote scathingly to those who demanded a legalized lynching of Southern military leaders.

The Federal methods of total warfare and the arguments which were used to justify them aroused curiously little interest at the time in Europe. Naturally, supercilious eyebrows were raised in professional circles in Aldershot, Potsdam, and Longchamps. But, after all, they reasoned, what better could be expected of colonials led by militia officers whose only training had been wars with Red Indians. Von Moltke dismissed the American Civil War as "a colossal conflict between two armed mobs chasing each other around in a wilderness." No lesson was to be learnt by European professional soldiers from such disorderly proceedings, least of all the hoary truth that one way of winning a war was to terrorize the enemy civilian population. In the fullness of time, this hoary truth was to be impressed upon Europeans, not by observing a distant campaign between armed mobs on the far side of the Atlantic, but by personal experience.

Fortunately for their peace of mind, no vision of the future was vouchsafed to the military panjandrums of Europe. To them, the possibility would have seemed grotesque that within a few decades the descendants of the "armed mobs" fighting under Grant and Lee in Virginia should have the presumption to intervene decisively in a European civil war. Even if Eisenhower's men could hardly be dismissed, like their ancestors, as an armed mob, yet, by European professional standards of the 1860's, they would have been classed less as soldiers than as specialists in the use of various new mass-produced instruments for taking human life. Their whole outlook on warfare—which was precisely that of General Sherman—would have been considered in the 1860's as the exact opposite of all that was meant by the word soldierly.

General Sherman's views on war were shared and applied by his dashing colleague, General Philip H. Sheridan, one of whose claims to fame was his merciless devastation of the Shenandoah Valley in the campaign of 1864. In 1870, General Sheridan visited Europe and, as the guest of German Headquarters, was a favored eye-witness of the memorable campaign in France in that year—for the night after the battle of Gravelotte he shared the bare boards of an abandoned house with Count Bismarck and the Grand Duke of Mecklenburg and he was one of the distinguished gathering on the Hill of Cheveuge which witnessed General Reille hand to King Wilhelm the letter from Napoleon III announcing the surrender of the French Army encircled in Sedan. The fighting capacity of the German troops and the skill of their leaders filled General Sheridan with boundless admiration but their lack of enterprise in allowing themselves to be cramped and hampered by the rules of civilized warfare then prevailing in Europe, aroused his contemptuous amusement. Having by a swift and unbroken series of victories destroyed or captured the bulk of the French regular forces, the Germans were experiencing great difficulty in defending the communications of their armies blockading Paris from the raids of irregulars working behind the German lines and from the attacks of the new French armies being gathered in the provinces for the relief of the capital. "You know how to hit an enemy as no other army does," Sheridan remarked to Bismarck, "but you have not learnt how to annihilate him. *One must see more smoke of burning villages, otherwise you will not finish off the French.*"

Bismarck did not, of course, need to have it pointed out to him that France could be quickly brought to her knees by sending forth punitive expeditions to lay waste the countryside. To sully the glory of their victories over the French armies by a barbarous campaign against the French civilian population did not appeal to the German leaders. The smoke of burning villages seemed to Europeans of that generation more in keeping with fighting Red Indians in the Wild West than with orderly warfare between civilized European nations. In spite of Sheridan's doubts, they remained confident that the war could be won by civilized methods of warfare in accordance with European traditions. This confidence proved fully justified. The war was at length crowned by a victorious but negotiated peace and Europe enjoyed a respite from civil war which lasted for 43 years.

An interesting sidelight on the thought and manners of those ethically inconceivably remote days of the Franco-Prussian War is given by a long out-of-print and forgotten book, *Im Grossen Hauptquartier 1870-71*, which recently came by chance into the present writer's possession. Published in 1910 as filial tribute by the author's daughter, this book consists of the collected articles contributed to a long defunct Berlin paper by its special war correspondent, Hermann Salingré.

From a literary point of view little merit can be claimed for these articles. In them Salingré shows himself to have been a simple-minded man, unassuming, diffident, and prosaic. No one can be imagined further removed than he from that flamboyant militarism which characterized so conspicuously many of the next generation of Germans and French. While rejoicing naïvely in the succession of German victories, he neither glorifies nor idealizes a soldier's life. On the contrary, he dwells continually on the deprivations of the men compelled by the call of duty to leave their homes in Germany to undertake a few months campaigning in France. In fact, his lamentations over the cruel fate of the troops, prevented by the unexpectedly prolonged resistance of Paris from rejoining their dear ones for Christmas, strikes a modern reader as little short of comic in their extravagance. Accepting without question or argument that his country was entirely in the right, he expresses no bitterness against the French, presumably, in his view, entirely in the wrong. The sight of damaged property merely fills him with thankfulness to God that his country had been spared

the horrors of war. While repeating all the stock chestnuts of war reporting of the kind which no doubt delighted Assyrian readers in cuneiform characters and certainly delighted the British public in 1945—for example, that while the enemy was tenacious in fighting at long range, he could not withstand attack at close quarters with the bayonet—he provides his readers with no enemy atrocity stories.

The supreme moment of Salingré's experiences was after the surrender of Sedan when he was privileged to witness from a distance of twenty paces the meeting of the Emperor Napoleon III with Count Bismarck at Donchery. His reflections on this epoch-marking occasion were as ever platitudinous, but he describes vividly enough the sight of this "once so powerful man" waiting patiently, seated on a peasant's chair outside the cottage of a Belgian weaver named Fournaise, the arrival of his conqueror. He naïvely comments that he found the Emperor's appearance very different from what he had been led to expect by the German comic papers. His natural jubilation, he tells us, was quickly replaced by "a sad, heartrending impression" at so complete a downfall. Upon the Emperor happening to glance in his direction he felt that one could not "tread so unfortunate a man deeper in the mud"—"I respectfully removed my hat and experienced a thrill of satisfaction when I saw that the Emperor had noted my greeting and thanked me."¹¹

Salingré was an entirely conventional and commonplace individual. He was not only a typical German but a typical journalist of his generation. Herein lies the whole significance of this incident. In no circumstances would his natural diffidence have allowed him either to rise far above or sink much below the accepted standards of his time. Even if one can imagine a present-day war correspondent being moved to such an act, it is impossible to imagine him reporting it and still less his editor accepting and printing it. One trembles to think of the fate of anyone who had committed such an act of courtesy to Field Marshal Keitel during the proceedings at Nürnberg! Whether he would have been instantly committed for contempt

¹¹ The worthy Salingré's description of this memorable incident deserves record in his own words: "Napoleon III. sah verhältnismässig gut aus, nur die Situation, in der er sich befand, machte einen traurigen, herzbeklemmenden Eindruck, und man mag es mir verzeihen, wenn ich gestehe, dass er mir in diesem Augenblicke leid tat. Ich fühlte in diesem Moment so etwas, als dürfe man diesen unglücklichen Mann nicht noch tiefer in den Kot treten, ich zog respektvoll den Hut, da er gerade auf mich blickte und empfand eine Art Befriedigung, als ich sah, dass er meinen Gruss bemerkt hatte und dankte." (*Im Grossen Hauptquartier*, p. 68).

of court turns, of course, on the knotty legal point whether it is possible to commit contempt of court to a court sitting without jurisdiction. Probably one of the non-European jailors posted menacingly at the back of each prisoner would have settled the matter summarily by a blow with his club. At the least, immediate expulsion from occupied territory would have resulted, followed by instant dismissal on the culprit's return to Fleet Street (the London newspaper district).

Judged by what is the only valid test, the battle of Sedan must be assigned an unique position among European battles. War is not a sporting event in which victory is an end in itself: it can only be justified as a means by which an equitable and lasting peace is achieved. A century before, the Swiss jurist, Emeric de Vattel, had convincingly argued that only an equitable peace could be lasting and that an equitable peace must conform to certain specified principles. Although it contravened several of the most vital of these principles, the peace which followed Moltke's triumph at Sedan endured for no less than 43 years. Relieved from the waste and destruction of war for a period longer than any in the history of Europe, civilization throughout Europe made enormous strides between 1871 and 1914. Within a few decades of its close, this period began to appear in public memory as a remote and semi-mythical epoch of universal contentment and security, of unbroken tranquility and prosperity. Prosperity, in fact, seemed to flow naturally from peace. Never before had the rich been so rich and never before had there been such opportunities to enjoy riches. With only colonial wars and few social services to be paid for, taxation was incredibly light. As wealth increased, the standard of living rose: new discoveries and improvements brought comforts and luxuries within the reach of ever widening circles of the population. In most European countries, measures of social reform improved to a greater or less extent the lot of those who depended on their daily earnings. A belief in inevitable and unending progress became universal: there was a general feeling of security. It appeared incredible that European supremacy would ever be challenged: the rest of the world seemed created by a kindly Providence for exploitation by one or other of the European Powers. There was the best reason for thinking this happy state of affairs would continue indefinitely, since it was utterly impossible to conceive any issue arising between the European Powers important enough to tempt

any sane statesman to run the risk of a general disaster by plunging Europe into another civil war.

It rarely happens that even the victors in a modern war derive any lasting benefit from their victory, and any examples of mankind in general benefiting from warfare are rare indeed. The fact that the peoples of Europe benefited by the German victory over France in 1870 was assuredly not due to any strain of altruism in the German character, still less that it was one of the aims of Bismarck's policy to confer benefits on mankind. Bismarck's altruism was a by-product of his realism and his nationalism. Fundamentally, his aims were as selfish as those of any later statesman. But his selfishness was intelligent selfishness. He was no lover of peace in the abstract: he had no more moral scruples against resorting to war, if policy required it, than had Franklin D. Roosevelt. Down to 1870, his aims could only be achieved by war, while, thereafter, his aims could only be achieved by peace. Having saved the German people by three victorious wars from that condition of disunity and political impotence which for centuries had made their country a battlefield for their neighbors, Bismarck realized that a long period of peace was essential for recovery and development. If Germany's neighbors began to fight each other, Germany was certain to become involved. Therefore, he devoted himself, from the downfall of France in 1870 to his dismissal by the young Kaiser Wilhelm, in 1890, to making Europe safe for Germany. This he achieved by negotiating a series of defensive alliances and treaties designed to preserve the peace of Europe. As Esme Cecil Wingfield-Stratford puts it:

Bismarck had gone about his task of establishing German unity with a skill and finesse never surpassed, if ever equalled, in the records of diplomacy. So far as the world could be made safe for peace and for Germany he made it so. He was no philanthropist. He had no scruples, and no ideals beyond that of a simple loyalty to his country. He was never more sincere than when he described Germany as a saturated Power. Now that all was German from the Vosges to the Vistula, he had no sentimental dreams of expansion, even in the colonial field.¹²

One of the indirect consequences which followed from Bismarck's peace policy was that Europe became for nearly half a century little short of an Utopia for its ruling classes, and

¹² E. C. Wingfield-Stratford, *The Victorian Sunset*, London: Routledge, 1932, p. 164.

particularly for its royalties. The kings and princes of Europe whose grandfathers had lived in dread of the guillotine and whose grandsons were mostly destined to die violent deaths or become forgotten exiles, enjoyed unparalleled security, prestige and esteem. In public, they were regarded with awe and reverence when they went forth to attend each other's weddings and funerals, to review their own or each other's troops or navies, or to pay state visits to each other. In private, there was frequent bickering among them and occasionally antipathies such as that between Queen Victoria's eldest son, Edward, Prince of Wales, and her grandson, the young German Kaiser, but, publicly, the most cordial sentiments were always expressed. The European royal families were all more or less nearly related by blood or marriage to each other and to that strong-minded old lady who resided in Windsor Castle and who exercised over them a matriarchal influence which few ventured to defy.

Happy were kings in those days and happy the subjects whom kings delighted to honor. It might well be thought that the ruling classes in the leading European states, for whom the various royalties acted as leaders or figureheads, would at least refrain from conduct which would endanger this, for them ideal, state of affairs. Had only the ruling classes of Germany, Austria, and Russia held together in mutual self-protection, the established order might have continued indefinitely. The Haves had nothing to fear from an uprising of the Have-nots: a dozen Lenins could have achieved nothing more than the stirring up of local disturbances, easily suppressed. So long as peace was preserved, the Haves were secure. The Haves in all the states of Europe were thus linked by one paramount interest, the preservation of peace. As all effective political power was vested in the Haves, it is hard to imagine how peace could have rested on a securer foundation.

In fact, however, the peace of Europe rested on nothing more substantial than the political life of one old man. So long as Bismarck remained Chancellor, the German Empire served as a mighty makeweight for a stable equilibrium. Once he had gone, his successors were free to join with zest in that time-honored game of European diplomacy which in the past had always been the prelude to the outbreak of European civil warfare. The other great powers joined with equal zest in the

game. In the circumstances then existing, this was not a difficult game in which to take part.

Europe was covered by a network of alliances, treaties, secret agreements, guarantees, ententes, and understandings and there was ready to hand a profusion of unsatisfied claims, concessions, spheres of influence, grievances, and prescriptive rights. It was an easy matter, therefore, to find, for example, an ambiguous clause in a treaty and then, having secretly purchased in advance the support of neighboring powers by promises of concessions, to put forward a claim, based on a novel interpretation of this clause, against some other power, either a weaker power or a power distracted at the moment by some similar activity. If the diplomatist in charge played his cards so well that this other power felt compelled to give way, he was held to have scored a diplomatic triumph and his grateful sovereign would reward him with titles and honors. On the other hand, if he played his cards so badly that the other power felt itself strong enough to reject his claim, his country was held to have received a diplomatic rebuff. In that case, he would probably be dismissed, and his successor would be entrusted with the task of vindicating the national dignity, it being an inflexible rule of the game that the losing side must take immediate steps to avenge a diplomatic rebuff, a rule which ensured that the game went on *ad infinitum*.

Seen in retrospect, the issues at stake in the periodic crises which distracted Europe after Bismarck's dismissal seem indescribably trivial. For example, the outstanding diplomatic triumph of the epoch 1870-1914 was when Austria, in 1908, succeeded, by a masterpiece of sharp practice, in scoring off against Russia by formally annexing the former Turkish province of Bosnia, a province she had administered with the consent of all the Powers, entirely as she saw fit, for upwards of thirty years. This achievement, from which Austria derived no practical benefit and from which no one suffered any material harm, imperilled the whole structure of capitalist civilization in Europe and proved to be an important step towards the final catastrophe six years later.

The behavior of the ruling caste in Europe during the first years of the twentieth century can only be compared with that of the inhabitants of a beautiful and comfortable house who persist in descending into the basement in which a store of gunpowder is kept for the purpose of letting off fireworks. The

fact could not be disguised that there was an acute danger of war every time a crisis occurred. It was, indeed, one of the inflexible rules of the diplomatic game that if the parties involved in a crisis muddled themselves into a position so that neither side could withdraw "with honor" there was no alternative open to them but to go to war. Reliance seems to have been placed on the assumption that when another war came it would be a strictly limited war similar to those of the eighteenth century—after the generals had fought a few battles, the diplomatists would again resume control and negotiate a settlement by which existing treaties would be varied slightly in favor of the side which on the whole had had the best of the fighting. No one seems to have realized that conditions had changed markedly since the eighteenth century or suspected that new and potent forces would be released on the outbreak of war.

The power of one of these new forces, namely the power of the press, should at least have been foreseen, since in peace time it had already developed a disastrous influence over international relations. By the rules of the diplomatic game, double-dealing and sharp-practice were permissible within certain ill-defined limits. If these limits were exceeded, a formal "sharp note of protest" was sent to the offending party. Such notes, couched in stereotyped, diplomatic language, gave no offense. It was a recognized move in the game to profess indignation on occasion at the doings of the other side. But to the press they possessed news value: they served as a means of arousing public interest, and, if well handled, of increasing sales. The offending power was, therefore, roundly denounced for trickery and perfidy, and, needless to say, its press retorted in the same strain. The language employed, although moderate compared with the language now habitually employed by the press on such occasions, served to accustom the publics of the various European countries to regard certain groups of foreigners as gallant allies and certain groups of foreigners as treacherous enemies. Wingfield-Stratford puts the matter in a nutshell where he writes:

A disease was infecting the whole of civilization, causing the international temperature to rise to a fever heat, with danger of ultimate collapse. The whole system by which the world was governed was hopelessly, fatally, out of date. With civilization becoming every year more international, with the world drawing together

into a single economic unit, the last resort of human wisdom was to set up an uncontrolled anarchy of nations and nationalisms, and to employ all the resources of science to make that anarchy more deadly. Hatred was now engendered by scientific mass-suggestion, commerce was choked by scientific tariffs, "backward peoples" were bled white by scientific exploitation, and the ultimately inevitable suicide would be rendered scientifically complete. Even the best that Bismarck could do, by the diplomatic finesse of which he was master, was to maintain an unstable equilibrium, and the worst that Wilhelm II could do, by an almost incredible series of diplomatic blunders, was to hasten the catastrophe that was bound to come sooner or later, and would be worse later than sooner.¹³

Outwardly, in 1914, no great change had taken place in the structure of civilization during the respite of 43 years which followed Sedan. This is the best apology which can be made for the men who so lightheartedly embarked on war in that memorable year. At the outset of the first World War, all the belligerents were actuated by strictly limited objects and all probably quite honestly intended to achieve them by limited means. The Allies were paying a quite undeserved compliment to his intelligence when they attributed to Kaiser Wilhelm vast Machiavellian schemes of world conquest; comparable was the intricate plot to encircle Germany which the Germans attributed to their enemies. All parties blundered helplessly into war with minds singularly innocent of ideas, good or bad. All, to a greater or lesser extent, had been striking attitudes in shining armor until a situation had arisen in which hallowed tradition and national honor could only be preserved by war.

No other explanation is tenable on the facts except on the assumption that a sudden wave of insanity swept the governments of Europe. In 1914, life on this planet had become exceedingly pleasant for the ruling classes. For those who already had much, more was being given abundantly, the amenities of life were being constantly increased, and absolute security was assured, providing only that the ruling classes would refrain from suicidal civil war. Conquest from without was out of the question—even Kaiser Wilhelm knew in his heart that he was talking theatrical nonsense when he made the flesh of his contemporaries creep by warnings of the Yellow Peril. Revolution from within could easily have been repressed—even in Czarist Russia only a disastrous foreign war could seriously imperil

¹³ Wingfield-Stratford, *op. cit.*, p. 268. On the manner in which the press stimulated diplomatic tension, see O. J. Hale, *Publicity and Diplomacy*, New York: Appleton-Century, 1940.

the security of the established order. Even the two main immediate causes of the first World War—the Russian desire for the Straits leading out of the Black Sea and the French desire for the return of Alsace-Lorraine—could surely have been handled by diplomacy. Britain and Sir Edward Grey were the main obstacles to awarding Russia the Straits, and Germany was willing to discuss the extension of considerable autonomy to Alsace-Lorraine.

From all conceivable external dangers the established order was, indeed, absolutely secure. Danger came from within. As early as 1900, certain symptoms might have been detected by acute observers which suggested that, in the next European civil war, the belligerents might not be disinclined to hearken to tempting counsel of the kind that General Sheridan had offered Bismarck in 1870. A new spirit was abroad or, perhaps to put it more correctly, an old spirit dating from the times of King Sennacherib was showing signs of reviving. One of the earliest spokesmen of the new age which lay ahead was the young German emperor, Wilhelm II, whose true spiritual home, it can now be seen, was not, as he imagined, at the Round Table of King Arthur, in the remote past, but at the Yalta Conference of half a century later.

By most of his contemporaries Wilhelm was regarded as an ill-balanced neurotic, obsessed with his own perfections and the unqualified wickedness of anyone who opposed him. As a consequence, his most outrageous assertions caused nothing more than embarrassment at home and amusement abroad. Even his appeal to his troops embarking at Bremerhafen to take part in the Boxer Campaign that they should emulate the doings of King Attila and his Huns, aroused no general apprehensions as to what the future might hold in store. It was felt that such sentiments could at any rate have no possible application to warfare between European nations. Had not the existing standards of European civilization endured for two centuries and survived even so severe a test as the Napoleonic Wars? When another test came, everyone, including Queen Victoria's grandson, could be trusted to act like gentlemen.¹⁴

¹⁴ Of course, the mercurial behavior and flamboyant rhetoric of the Kaiser were no true reflection of his attitude toward war in the concrete. When it came down to brass tacks in the summer of 1914, he lined up on the side of peace, but too late to check the rush to hostilities. His boasts and bravado were, actually, far less of a menace to peace than the personal antipathy of Edward VII to Germans generally and to the Kaiser in particular, and Edward's secret intrigues with the French.

Another symptom which might have given ground for reflection came from across the Atlantic where President Theodore Roosevelt was carrying out his "policy of the big stick" with characteristic vigor. Although by many, including his fellow-countryman, Henry James, the President might be dismissed as "a mere monstrous embodiment of unprecedented resounding noise," the small states of Latin America found it perilous not to treat him seriously. When Colombia failed to come to terms with him in regard to the building of a canal across the Isthmus of Panama, a mysterious revolution immediately broke out in the canal zone, the Colombian Government was peremptorily forbidden to send troops to restore order and a treaty providing for the building of the canal on terms most favorable to the United States was promptly concluded with the newly-established provisional government of Panama. No more workmanlike job can be attributed to Hitler or Stalin. It is significant that Theodore Roosevelt's brusque rejection of the German demands at the time of the Venezuelan crisis of 1902 won for him the lasting respect and admiration of Kaiser Wilhelm. Although unlike in many ways, the two men were linked by a fellow-feeling arising from the lack of appreciative understanding which they both found in their contemporaries.

Perhaps, however, the dawning spirit of the days which were to come most clearly revealed itself in Admiral Lord Fisher who, with the possible exception of Lord Haldane, was probably the ablest of the men who surrounded King Edward VII. Speaking to the journalist, W.T. Stead, in 1900, Admiral Fisher declared:

I am not for war, I am for peace. If you rub it in, both at home and abroad, that you are ready for instant war with every unit of your strength in the front line, and intend to be first in, and hit your enemy in the belly, and kick him when he is down, and boil your prisoners in oil if you take any, and torture his women and children, then people will keep clear of you.

Of course, no one in 1900 was prepared to believe that any civilized man could really hold such an opinion, still less that within half a century this opinion would become a commonplace. For this reason only, the expression of such sentiments did the speaker no harm professionally or socially: they were dismissed as mere examples of quarterdeck humor. The Admiral's favorite maxim, "Hit first, hit hard and hit anywhere" was considered rather stirring but without any particular signif-

icance. Writing, in 1912, to Lord Esher, Lord Fisher defended his views by insisting that "It's quite silly not to make war damnable to the whole mass of your enemy's population. When war comes, might is right, and the Admiralty will know what to do."

It was not, of course, known at the time that Admiral Fisher had no hesitation in urging that his views should be carried into practice. When it became clear that the naval building program commenced by Admiral Tirpitz was becoming a menace to British naval supremacy, Admiral Fisher begged for permission to end summarily the armament race by taking his battleships over to Kiel and sinking the German High Seas Fleet in harbor. This proposed operation he picturesquely termed "Copenhagening the lot"—a reference to the British attack on Denmark in 1807, an episode which might have provided the framers of the London Agreement of 1945 with a classic example of an aggressive war. It well illustrates how dominant the nineteenth century code still remained that Edward VII was neither shocked nor angry at the Admiral's proposal but merely dismissed it with a brief, "Fisher, you're mad!"

In one respect only may Admiral Fisher be regarded as old-fashioned in his outlook. Although he foresaw the principles upon which the wars of the future would be fought, he had no conception of the enormous power which would come to be wielded by scientific propaganda. He never realized that, to achieve victory under contemporary conditions, a well selected and maintained moral pose was not less indispensable than the skillful use of unfettered violence. Thus, when, in 1917, Germany adopted unrestricted submarine warfare, Lord Fisher had no patience with the frantic outcry which followed. Being from the German point of view a necessary step towards winning the war, no other justification seemed to him to be needed and he flatly declined to join in the chorus of denunciation. As his proposal "to Copenhagen the lot" proves, Lord Fisher had no scruples about starting a war which he considered desirable. There is no reason to think that moral or humanitarian scruples would have restrained him during a war from applying his maxim: "Hit first, hit hard and hit anywhere." On the other hand, after a war had been won it is hard to believe that he would have countenanced a brother admiral being hypocritically condemned to life imprisonment for doing just what he himself would not have hesitated to have done.

The decisive role destined to be played by propaganda in

warfare was, however, a development which no one, not even Lord Fisher, could reasonably be expected to have foreseen. Once hostilities had started, two factors left out of account by everyone operated to bring about a quite unexpected result. In the first place, after a respite of 43 years Europeans had become unaccustomed to war; consequently, the sufferings and loss inseparable from war, even when waged in accordance with the strictest rules, aroused quite genuine horror. In the second place, there had long been growing unnoticed the power of the popular press to which the gory details of any war, however petty, served as a welcome change from accounts of crimes, accidents, and earthquakes. A major war was an opportunity for sensational embellishment not to be missed. Reacting each upon the other, these factors created a frame of mind which was quickly turned to account by the belligerent governments—and in particular by the British Government—at first seriously embarrassed by the problem of supplying the man in the street with a plausible explanation of what the war was about. The answer to this problem lay ready to hand: "The enemy is committing atrocities: to commit atrocities is uncivilized: we are fighting the enemy: therefore we are fighting to save civilization!"

Obviously, a struggle for so grandiose an object could not be allowed to peter out like other European civil wars in negotiations resulting in the side which had suffered worst in the fighting obtaining peace by ceding a province or two or some colonial possessions. A new world order must be created to safeguard civilization forever when once saved. For once, the demand created the supply, and in due course the Fourteen Points were propounded to an admiring world.

The method of presentation was an entirely novel departure in international politics but the principles upon which this presentation were based had long been partially understood. For many years before 1914, a mass of empirical knowledge concerning the reactions of the human mind to certain astutely applied stimuli had been gradually accumulating and had been frequently turned to account for personal gain by various gifted individuals. As long before as the time of Charles II, Titus Oates had achieved results which in their way have never been surpassed. No emotional engineer of modern times can be compared with that French woman of genius, Madame Thérèse Humbert, who, at the end of the nineteenth century,

for nearly twenty years kept the most astute bankers and financiers of Paris under her spell to her own great profit and their great loss. The celebrated Tichborne case of 1872 and the equally remarkable Druce case of 1907, the two most celebrated English fraud cases, both promoted by publicity, demonstrated how limitless is the credulity of the general public and what an imposing structure can be erected from a scientific blending of distorted facts and skillful fabrications.¹⁵ It was not, however, until 1914, that it was realized that what could be achieved by Orton the Wagga Wagga butcher and by Druce the Melbourne carpenter for their own personal advantage could be achieved on a far wider scale for the national good by persons of the highest integrity employed by the State and with all the resources of the State behind them. As so frequently happens in contemporary life, the haphazard lessons learned by private enterprise were adapted, systematized, and developed by the community. In this instance, at least, nationalization was triumphantly vindicated by the decisive results achieved.

It was the opinion of two such dissimilar observers as Lord Northcliffe and Adolf Hitler that the war of 1914-1918 was won by the war propaganda of the Allies. On the one hand, the peoples of the Allies were inspired in their war efforts by loud professions of genuine, if vague, ideals. On the other hand, the German people were never clear for what exactly they were fighting. When hostilities were progressing favorably they were told their reward would be the annexation of some foreign territory; when hostilities took an unfavorable turn, they were told that they were fighting for their existence—although

¹⁵ Arthur Orton was the claimant in the celebrated Tichborne trial which took place in England, in 1872. He claimed to be the missing heir of the Tichborne estates who was believed to have been drowned in a shipwreck some years before. He claimed to have been rescued, since when he had been earning his living as a butcher in Wagga Wagga in Australia. Although he did not in the least resemble the missing heir, thousands of people believed in his claim and many subscribed money to establish it. When his claim had been dismissed after a trial which lasted nearly a year and is said to have cost £200,000, he was prosecuted for perjury and after another long trial sentenced to fourteen years penal servitude. Many still believed in him, however, apparently on the ground that he was a working man whom a rich and aristocratic family was trying to deprive of his rights.

The Druce Case, in 1907, related to a very similar claim. It was based on the romantic fiction that the Duke of Portland had led a double life, spending part of his time as the Duke of Portland and the other part as a Mr. Druce, the wealthy proprietor of a big London store. A secret passage was said to connect his two residences. When the Duke tired of this double life, he was alleged to have disposed of Mr. Druce by an elaborate funeral with an empty coffin. Long after the death of the Duke and Mr. Druce (who was a real person who actually died when everyone thought), a claim against the ducal estates was put forward by a Melbourne carpenter, a descendant of Mr. Druce. The case was finally disposed of—after much litigation and perjury—by opening the coffin when the body of Mr. Druce was found therein.

their enemies were pledged to conclude a peace to which no reasonable objection could be made.

By winning the war, Allied propaganda can be said to have fully justified itself and yet it entailed serious drawbacks, the full effects of which were not experienced until afterwards. Obviously, this propaganda campaign violated two of the principles upon which Emeric de Vattel had been most insistent. In the first place, as we have seen, he had laid down that "all offensive expressions indicating sentiments of hatred, animosity and bitterness" must be avoided so that the way to a negotiated settlement might not be closed. Secondly, he had insisted that war aims must be limited and specific and should "not be mixed up with Justice and Right nor any of the great passions which move a people."

In support of these contentions, Vattel had, in brief, argued that the only justification for any war is that it will lead to a lasting peace. Now a lasting peace can only arise from a freely negotiated settlement. Emotion in any form is an impediment to negotiation. Offensive expressions and appeals to abstractions arouse emotion. Therefore, offensive expressions and appeals to abstractions must be avoided in warfare.

The war of 1914-1918 may be said to have been won by copious and adroit use of offensive expressions and appeals to abstractions. In accordance with Vattel's argument, it did not lead to a lasting peace. Further, Vattel contended that a harsh dictated peace must inevitably arouse a determination in the defeated side to reverse it. Adolf Hitler can best be interpreted as the incarnation of this determination.

During the course of the struggle, one final opportunity was vouchsafed the peoples of Europe by indulgent destiny to escape the natural penalty of disunity and disorder. In European Civil War No. 8a, the belligerents proved so equally matched that after three years of desperate conflict no decisive advantage had been gained. Truculent self-confidence had been everywhere abashed; the German Army had achieved no second Sedan at the Marne and no second Trafalgar had been achieved by the British Navy at Jutland; far from reconquering Alsace, the French Army had failed to protect Northern France from enemy occupation; the Russian Army and the Austrian Army had each sustained a series of humiliating defeats; and the Italian Army had recently demonstrated at Caporetto how far and how fast panic-stricken human beings can run. In every country and

among all classes, realization had come that war was no longer the polite orderly sport of kings, as it had been in the eighteenth century, but had become a tedious, costly, and murderous business; in every country and among all classes war-weariness and disillusionment had become predominant. To those who objected that three years of frantic endeavor and terrible slaughter must not be wasted, it could be answered that the best, and, in fact, the only justification of so much toil and bloodshed was not some petty territorial annexations or frontier adjustments but an enduring peace, securely based on the realization by all concerned that in a present-day war no one benefits. Had peace been concluded in 1917, for several generations at least the militarists and armament manufacturers would have striven in vain to banish the memory of such an experience.

The golden opportunity to establish a lasting settlement must have been obvious to many at the time. It was left, however, to the Marquess of Lansdowne alone to draw public attention to it. Representing not merely sane public opinion in Great Britain or even sane contemporary opinion in Europe, but voicing the protest against futile squabbling which had been so often expressed by isolated European thinkers since the dawn of the Middle Ages, on November 27, 1917, Lord Lansdowne wrote a letter to the *Times* urging that negotiations for peace should be commenced. "The prolongation of this war will spell ruin for the civilized world," he wrote. "If the war is to be brought to a close in time to avoid a world-catastrophe, it will be because on both sides the peoples realize that it has already lasted too long."

In attempting to influence a public suffering from acute paranoia by an appeal to reason, Lord Lansdowne displayed the highest moral courage. He also displayed keen political foresight, although we may not be able to credit him with vision of all that was at stake. If a peace without victors and without vanquished had been concluded in 1917, it would have been a peace primarily the work of Europeans and, consequently, there would have been no occasion to pay humble homage to President Wilson and his gospel of 'self-determination' which inevitably entailed an early dissolution of the British Empire; Germany's Unknown Soldier would have remained merely one of the obscure millions who had fought in the front line for their fatherland; the return of Alsace by Germany to France

would have removed the principal subject for ill-feeling between the two chief European states; the ruling classes in Russia would have quickly regained the upper hand, Russia would have remained a member of the European family of nations and Lenin's attempt to restore the Eurasian Empire of Genghis Khan in the shape of a militant communist commonwealth would have been stifled at its inception; and unthinkable would have remained such features of contemporary life as the indiscriminate killing of civilians by terror attack from the air, the mass deportations of populations numbering millions, the official looting of private property, the systematic sabotage of enemy industries, and the consignment of prisoners of war to the galleys or to slavery of indeterminate duration. Perhaps of even greater interest to many in the future will be the fact that Asia would have remained a vast but remote area beyond the Urals and not, by swallowing half Europe, have extended to the banks of the Oder within four flying hours of London. No date in human history suggests more pregnant might-have-beens than the date of Lord Lansdowne's letter.

But habits engrained during a thousand years are not easily overcome. The editor of the *Times*, before falling into a swoon, consigned the letter, albeit it was the letter of a peer and an ex-cabinet minister, to his wastepaper basket. The editor of the *Daily Telegraph* was, however, made of sterner stuff: greatly daring, he published the letter. Before writing it, Lord Lansdowne had disclosed his intention to a number of prominent statesmen—including Mr. Balfour, Lord Hardinge and the American, Colonel House—who had whispered approval of his views. But when the storm broke, these gentlemen preserved a discreet silence. The British Government expressed horror at the mere suggestion that the objects of the war should be disclosed; the emotional engineers were given their orders and, in a few days, Lord Lansdowne was the most unpopular man in the country. Thereafter, those who continued to fight for European sanity were fighting a battle finally lost.

In retrospect, the decline in the standards of warfare during the war of 1914-1918 appears less than might have been expected under all the circumstances. There was a marked but not a headlong decline. In essence, this conflict remained a European civil war and the traditions of European civil warfare which had then existed for two centuries were, on the whole, maintained. This is best seen by contrasting the be-

havior of the troops who entered Germany in 1918 with that of those who invaded the country in 1945. Cut off by four years of service at the front from the home population, the troops of Foch and Haig had acquired, to a great extent, the outlook of professional soldiers. In contact with facts, they were little influenced by the fictions of propaganda, and sympathy and respect had grown up between them and their opponents. Between men facing the same dangers, enduring the same hardships, and performing the same duties. Their discipline, when they entered enemy territory in 1918, was not undermined by official exhortations to refrain at all cost from "pampering the enemy. Looting of civilian property by soldiers was still a major military crime—as it remained until it was announced that after hostilities enemy civilian property would be officially looted. They had not before them the example of the troops of non-European Powers, indifferent to the rules of European civil warfare, nor of the gangs of auxiliaries from the underworld of countries recently under German occupation bent on paying off old scores. Their leaders were men of strong character—it is recorded that, soon after the Armistice, General Plumer informed Whitehall that he must decline to remain responsible for discipline in Cologne if his troops continued to be followed by bands of starving children for whom no provision had been made by the politicians. With gallant disregard for the feelings of propaganda-befuddled civilian opinion at home, General Plumer did not disguise his sympathy with the attitude of his men.

Admittedly, episodes of this kind were not frequent. The reception accorded to the German peace delegates at Compiègne was without precedent in the long annals of European civil war for its chilly severity. Marshal Foch was an unamiably personable, cold, precise, and stern. His attitude throughout was harsh and unbending. But he never forgot that he was a professional European soldier, familiar since youth with the rules and etiquette of the European civil war game. After the Armistice, a noisy clamor was raised in civilian circles that a number of distinguished professional soldiers, including Marshal von Hindenburg, should be penalized. The usual complete unanimity between the military and the civilian outlook was, of course, preserved. But the clamor mysteriously subsided and died away. One can but suspect that a heavy foot or fee was or were put down by a person or persons unknown.

There were few deliberate invasions of the sanctity of the lives of non-combatant persons and of civilian property during the War. The Germans temporarily terrorized Paris by firing a few shells into the city by use of an improvised long range cannon, but the damage to life and property was slight. Much damage was, of course, done to French and Belgian cities as a result of artillery bombardment during the advance of the German armies westward but this occurred only in connection with direct military operations, as was sanctioned by the European code of civilized warfare. The main onslaught upon civilian life was a product of the British blockade of Germany, which was continued for nearly a year after the Armistice and led to the starvation of nearly a million German non-combatants. On the whole, however, the old European code of civilized warfare dominated military strategy and operations during the conflict.

Few would now have the hardihood to deny that the peace settlement of Versailles in 1919 was a complete and tragic failure. It failed completely for precisely the reason so lucidly set forth and explained by Vattel 150 years before. Its failure was tragic because the principles upon which it was professedly based justified the highest hopes. Admittedly, it is impossible to reconcile the terms of the Treaty with the Fourteen Points in accordance with which the Allied pledge was given at the time of the Armistice. But we are not, therefore, compelled to accept the view, so passionately urged by Adolf Hitler, that the Treaty of Versailles was merely the culmination of a gigantic swindle intended from the start. The Fourteen Points were not a collection of dishonest verbiage like the Atlantic Charter. Certainly they were used later for propaganda to beguile the German people, but they were not designed for this purpose by their author, President Wilson.

It is a curious fact that the Versailles Treaty actually came to grief upon the very point on which it followed most strictly orthodox practice. For centuries, it had been the accepted principle of European civil warfare that the vanquished side should pay to the victors the cost of the war. The same principle is adopted in the legal systems of all countries in litigation between individuals. Costs follow the event. The man who goes to law and fails must pay the cost of the proceedings. With equal reason the country which goes to war and is defeated should be called upon to pay the cost of hostilities.

So long as warfare was waged on a small scale and was comparatively inexpensive, this principle was so obviously reasonable that the payment of war indemnities gave rise to little difficulty or ill-feeling. In litigation, a taxing master sees to it that the successful side does not give free rein to its imagination when drawing its bill of costs. In warfare, indeed, there has never been an international taxing master. Still, the war indemnities demanded in the eighteenth and nineteenth centuries do not seem to have been extortionate. It was once the custom to denounce the indemnity demanded by Bismarck after the defeat of France in 1870 as severe. To our eyes it seems moderate in the extreme. Surely, this is proved by the fact that France was able to pay the whole sum demanded within five years and, within ten years of Sedan, was once again a rich and prosperous state and one of the three great military powers of Europe.

By 1919, however, warfare had become so fabulously costly that, even if the expenses of the Allies had been assessed by a fair-minded tribunal, the sum payable would have been utterly beyond the capacity of the vanquished to pay and, further, if by some miracle it had been paid, the entire economic structure of the world would have been upset. Payment in full—although everyone admitted this to be impossible—was insisted on. Of course, promiscuous looting of public and private property, as provided by the Potsdam Agreement of 1945, would have been unthinkable to the mind of President Wilson who had formerly been a professor of jurisprudence. Not one single penny must be taken from Germany, he repeatedly insisted: all that could be required of Germany was that she should comply with the principle that costs follow the event. That compliance would mean the payment of vastly more than the total wealth of Germany must not be allowed to disturb this well-established legal principle.

The result was a succession of futile conferences, each conference leading to a settlement of the "reparations problem" which everyone knew to be impossible. The only result was that war-time bitterness was repeatedly aggravated and perpetuated. At long last, the Allies grew weary of insisting upon performance of the impossible, and tacit cancellation of one section of the treaty naturally encouraged the Germans to go on to repudiate the balance.

For a brief spell, about 1925, it seemed possible that, once

again, Europe would escape the normal penalty for indulging in civil war. The United States had ostentatiously repudiated further interest in European affairs. Few believed that Lenin's successors would succeed in keeping together the Soviet State which he had created out of the ruins of the Empire of the Czars. At Locarno, M. Briand, Herr Stresemann, and Sir Austen Chamberlain met together and cordially agreed henceforth to work together for the common good. The lamps which, in 1914, Sir Edward Grey had watched being extinguished one by one were to be re-lit, contrary to his lugubrious prediction, and the prosperity and happiness of the Edwardian Age was to return.

But habits dating back a dozen centuries are not so easily shaken off. In Europe, in the past, political differences had always led ultimately as a matter of course to civil war. Never before had there existed in Europe so many and so acute political differences. As Vattel in the Age of Reason had pointed out, a treaty imposed by force can only be maintained by force. The Treaty of Versailles had imposed harsh dictated peace terms upon the vanquished, thereby inevitably arousing in them a determination to reverse its decisions, regardless of the risks involved. Between 1933 and 1938, Adolf Hitler, the incarnation of this determination, by threats of force set aside one by one the main provisions of the Versailles Treaty. Throughout this time the Soviet Union continued to consolidate into a great military Power, with all the far-reaching territorial ambitions of the Czars combined with the political and economic ambitions of Karl Marx. Between Western Europe and the Soviet Union lay the newly re-created state of Poland. To Germany, in particular, Poland served as an invaluable buffer state. Self-preservation linked Poland with Germany, since the Polish ruling classes depended for their existence on being able to keep Communism in check. But, among the major absurdities of the Versailles Treaty, had been the creation of the so-called Polish Corridor. To rectify this wrong, of much greater emotional than practical importance, Hitler was prepared to sacrifice the protection of this buffer state. For their part, the Polish ruling classes were prepared to defend the Corridor by force, although the price of victory would inevitably entail the ultimate absorption of Poland by the Soviet Union and their own ruthless liquidation.

The preservation of peace was so obviously of paramount

importance to both the German and Polish Governments that each, quite naturally, became convinced that the other must be bluffing. Accordingly, in September, 1939, the first steps were taken which were finally to lead Hitler to suicide in the ruins of the burning Reich Chancellery and the Polish ruling classes to that systematic extermination which was destined to begin less than a year later in the Katyn Forest.

In order to preserve the integrity of Poland, so they announced, Great Britain and France promptly declared war on Germany. It was firmly believed that Germany lacked money and supplies of raw material: the Reichwehr was said to lack not only equipment and training but a fighting spirit. In short, the task in hand appeared to be merely a matter of putting the clock back to November 11, 1918. It was assumed that the war would be an exclusively European affair of which, of course, non-Europeans would not presume to take advantage.

But these optimistic anticipations were not realized. We are authoritatively told that, as the result of a "brain wave" in the British Air Ministry in 1936, it was decided, in the event of a future war, that non-military objectives should be bombed. In this manner, Europe finally succumbed to the Lincoln-Grant-Sherman doctrine that the destruction of enemy property and resources was as effective and legitimate in warfare as the defeat of the military forces of the enemy. Such was the decision. It was first implemented on May 11, 1940, when English bombers attacked German railway installations. German bombing to this time had been limited to siege operations against enemy outposts and fortified centers. From self-interest rather than considerations of humanity, Hitler sought to limit bombing to military objectives, but the British rejected his overtures in this respect. Hitler, naturally, retaliated in kind, and the traditional European code of civilized warfare was torn into shreds. Later on, the American air force, with little knowledge of or respect for the European code of civilized warfare, joined the British in indiscriminate mass bombing. Devastation of civilian persons and property resulted on a scale beyond anything known to the Assyrians and Mongols, largely because of the greater mechanical facilities for destruction. Total, primary warfare reëmerged with a grimness and demolition never before known in human experience. The stages and steps through which this terrifying result was attained will be described in the following chapter.

CHAPTER VI

THE SPLENDID DECISION

THE war which began in September, 1939, and ended in June, 1940, was, in all observable essentials, a typical European civil war. Of absorbing interest to students of strategy and tactics, it offers no features of general interest except that the point at issue was rather more frivolous than usual; its duration was unprecedentedly brief, and it caused comparatively little loss of life and damage—in the Battle of France the total German casualties were less than one third of the British casualties in the Somme offensive of 1916. Because it ended so quickly—the actual fighting lasted only four months—a war psychosis had no time to develop. Before the emotional engineers could work up their respective publics into a frenzy of hatred, it was all over. The decision of 1918 had been reversed, the French Army had surrendered and the B.E.F. had withdrawn, minus its equipment, across the Channel.

Intoxicated by the speed and completeness of their triumph, the victors were in no mood to set about paying off old scores. Clemenceau's deliberate humiliation of the German delegates at Versailles, the garrisoning of German towns with Negro warriors, and M. Tirard's campaign to annex the Rhineland by violence and intrigue were forgotten. With his highly developed sense of historical fitness, Hitler indeed insisted that the famous railway coach in the Forest of Compiègne, in which Marshal Foch had dictated terms of surrender so harshly only some 22 years before, should be the scene of the surrender of the Army which Foch had then led to victory. All the forms of military etiquette, however, were again punctiliously observed. Marshal Pétain was treated with the respect which his record as a soldier deserved. In spite of the boasted modernity of their outlook, it does not seem to have occurred, even to the most extreme of the Nazis, that Pétain's heroic defense of Verdun in 1916 justified his condemnation as a war criminal. Not until five years later, and then at the hands of his own countrymen, was the gallant old Marshal to experience what Dante called "the horrid art of justice."

It is, of course, the unchallengeable right of every sovereign state to deal with its own citizens according to its own

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ideas of justice. The administration of justice in France is exclusive concern of Frenchmen. Still, the spectacle of the Hero of Verdun (alias the Prisoner of Yeu), the man who saved France and the cause of the Allies when the French army continued after the failure of the offensive on the Chemin des Dames and the general whose strategy defeated Ludendorff in 1918, dying at the age of 95 after enduring six years of rigorous imprisonment on a bleak little island off the Atlantic coast, is a matter of general interest. It is not open to question that Marshal Pétain took command in France, in 1940, entirely from a soldierly sense of duty, and in a completely constitutional manner. It is equally unquestionable that he did his best to serve France in hopeless circumstances. When disaster came he considered it his duty to remain at the helm of state. In 1919, Field Marshal von Hindenburg, like Marshal Pétain a soldier of the old school, had come to the same decision and won thereby universal respect. Both acted in accordance with the ancient tradition that the captain should be the last to leave a sinking ship. This traditional role has often been contrasted with the behavior of rats who, according to a popular belief of equal antiquity, will leave a ship which they know by instinct is about to sink. It is curious that these traditions seem never before to have been combined in a single legend of a captain going down with his ship and later surviving to be traduced and reviled by those who judged it more prudent and less unpleasant to make a timely departure.¹

The role played by Marshal Foch, in 1918, was played in 1940 by the Chef des Oberkommandos der Wehrmacht, Generaloberst Wilhelm Keitel, shortly afterwards promoted to Field Marshal. An unknown captain in the Artillery commanding a battery in 1914 but shortly transferred to the General Staff, Keitel had progressed steadily and inconspicuously thenceforth from one staff appointment to another, until, while still practically unknown outside military circles, he had reached the front rank of his profession. At that historic spot in the Forest of Compiègne on June 22, 1940, Keitel crowned his military career by accepting the surrender of the beaten French Army, thereby securing an assured place in the annals of modern warfare alongside Grant, Moltke, and Foch. But for him, destiny had reserved a grim sequel, a sequel unique

¹ See Sisley Huddleston, *Pétain: Traitor or Patriot*, London: Andrew Dakers, Ltd. 1951.

in the records of civilized times. Unsuspected by him and by his contemporaries, Nemesis was on the point of overtaking Europe after so many centuries of indulgence with impunity in civil strife. The old standards, the old restraints, the old decencies, with so much else, were to disappear. Being done to death upon being taken prisoner was not included among the legitimate risks of soldiering at the time Keitel joined the army in 1901—unless, of course, one served against savages like the Dervishes or the Abyssinians. By suffering death as a prisoner of war six years later, Keitel attained a far wider historical significance than he had achieved in life. If and when the art of war becomes obsolete, his military achievements will become of interest only to antiquarians: his death by violence when a prisoner of war at Nürnberg, in 1946, will be remembered for all time as an event marking an important deviation in the course of human civilization.²

As remarked above, the war of 1939-1940 had, in itself, no outstanding characteristics. From outside, however, its course was dominated by an entirely new factor. Across the eastern frontier of Poland had arisen the Union of Soviet Socialist Republics, a gigantic quasi-Asiatic totalitarian military power with unlimited natural resources and a rapidly developing industrial system "profoundly" (to quote General J. F. C. Fuller) "anti-Occidental in outlook."³

With this military colossus watching and waiting so near, civil war was no longer a domestic concern to be conducted at leisure, a mere matter of adjusting some frontiers and paying off a few old scores. Even the briefest civil war entailed serious consequences. Immediately hostilities had started, the U.S.S.R. set about realizing far-reaching plans for expansion at the expense of Europe. First, about one-third of Poland was annexed with bland indifference to the fact that Great Britain and France professed to be fighting to preserve the integrity of Poland. Then, Finland "sublime in the jaws of peril," to quote Mr. Churchill, was attacked and subdued. Next, Es-

² General Keitel is not selected here because of his admirable character or his brilliance as a commander. In both of these respects he was markedly inferior to such German generals as Werner von Fritsch, Walther von Brauchitsch, Ludwig Beck, Franz Halder, Gerd von Runstedt, or Fritz Erich von Manstein. Indeed, Keitel was a rather weak "yes-man" for Hitler, though not one of the Hitler-created generals, like Jodl. Keitel is selected because he was a traditional German general, presided over the surrender of the French Army in 1940, was commander-in-chief of the German armies at the collapse in 1945, and was executed as a war criminal by order of the Nürnberg Tribunal.

³ General J. F. C. Fuller, *Armaments and History*, London: Eyre & Spottiswoode, 1946, p. 182.

thonia, Latvia and Lithuania were overrun and the leading members of the bourgeois classes liquidated or deported to the interior of Russia. With the collapse of France and the withdrawal of the British across the Channel, two urgent problems arose for the consideration of all Europeans—first, whether domination of Europe by the Soviet Union was too heavy a price to pay for the continuance of the civil war, and secondly, if this price was not too heavy, by what means was the war to be continued. Germany with a navy negligible in size could not send an army across the sea to invade Great Britain; single-handed Great Britain could never hope to invade Europe with an army strong enough to avoid its being immediately attacked and overwhelmed.

To put the problem in a nutshell: the essential rule of civilized warfare laid down that hostilities must be limited to the combatant forces. But, as from June 22, 1940, the combatant forces were separated by the sea. How in such circumstances could hostilities be continued?

Hitler's solution of this problem was an offer to negotiate peace. We need not consider whether this offer was sincere since any other course from his point of view, would have been madness. He had achieved all and much more than a he had set out to achieve and Germany lay under the shadow of the Red Army.⁴ Nor need we consider what terms he would have been willing to offer since his proposal was not even accorded a reply.

But a sulky silence by Hitler's opponents offered no solution to the problem as to how hostilities were to be continued and the war prevented from stagnating until boredom should overcome public opinion. Half a century before, the only means available would have been to launch a series of tip-and-run naval raids on the coasts of Europe. Now, however, the con-

⁴ In the opinion of Mr. James F. Byrnes, "Molotov's two conferences with Hitler on the 12th and 13th November 1940 marked the turning point of the war." As the price of a pledge by the Soviet Union to honor the pledge given the previous year by the Soviet Union not to attack Germany, Molotov demanded a protectorate over the whole of the Balkans and the right to establish a military, naval and air base on the Dardanelles, dominating the Mediterranean and turning the Black Sea into a Russian lake. "Molotov's demand for a definite answer on November 13th was his worst blunder," writes Mr. Byrnes. (See James F. Byrnes, *Speaking Frankly*, New York: Harper, 1947, p. 288.) Convinced that the pledge which had been obtained from the Soviet Union the previous year was worth nothing, and unwilling to pay such a price for another pledge of equal value, Hitler rejected Molotov's demand. Thereafter, he regarded a Soviet attack on Germany as merely a question of time and, nine months later, wisely or unwisely, decided to forestall this attack before the United States was ready to take an active part in the war.

quest of the air had provided a new method by which not only could boredom be combatted but a war psychosis created. The indiscriminate dropping of bombs at night on enemy centers of population would be bound, sooner or later, to call forth reprisals of a similar nature, and the resulting slaughter of innocent civilians could not fail to inflame warlike passions on both sides.

Certainly it is hard to imagine any other course of action which would have produced the result desired. The only drawback to this course was that the Luftwaffe at the moment was numerically much superior to the R.A.F. Hitler was threatening that, if the British air attacks on the German civil population continued, he would drop ten bombs on Britain for every bomb dropped on Germany. Consequently, the trials of the British civilian population would temporarily, at least, be severe if this policy were persisted in.

It is one of the greatest triumphs of modern emotional engineering that, in spite of the plain facts of the case which could never be disguised or even materially distorted, the British public, throughout the Blitz Period (1940-1941), remained convinced that the entire responsibility for the sufferings which it was undergoing rested on the German leaders. Faith is prized by theologians as one of the three cardinal virtues and accepting the definition that "faith is believing what one knows isn't so," it can truly be said that never before had this cardinal virtue been displayed so steadfastly by so many for so long. The practical value of this steadfast faith for the war effort can hardly be exaggerated: the Blitz was unanimously accepted as proof positive of the innate wickedness of the Nazi regime and, as such, endured as something unescapable. General recognition of the fact that it could be brought to an end at any moment might well have had a perceptible influence on the public attitude. Too high praise cannot, therefore, be lavished on the British emotional engineers for the infinite skill with which the public mind was conditioned prior to and during a period of unparalleled strain.

It was not until April, 1944, by which time the Luftwaffe had become paralyzed from lack of gasoline and the issue of the struggle was no longer in doubt, that the strict taboo on all mention of the facts was lifted in favor of Mr. J. M. Spaight, C.B., C.B.E., former Principal Secretary of the Air Ministry, who was permitted to publish a book entitled *Bombing Vin-*

dicated. The title in itself came as a surprise, since few until then had any idea that any vindication for bombing was needed. In this book the man in the street learned for the first time that he had made a heroic decision on May 11, 1940. The man in the street had, of course, no recollection of having made any decision, heroic or otherwise, on this particular date; in fact, he could not recall having made a decision of any kind for a very long time, since in a democracy decisions are not made by such as he, but by international financiers, press barons, permanent officials and even, occasionally, by Cabinet Ministers. No wonder the man in the street was perplexed.

Mr. Spaight, C.B., C.B.E., resolved this perplexity in the following lyrical passage:

Because we were doubtful about the psychological effect of propagandist distortion of the truth that it was we who started the strategic bombing offensive, we have shrunk from giving our great decision of May 11th, 1940, the publicity which it deserved. That, surely, was a mistake. It was a splendid decision. It was as heroic, as self-sacrificing, as Russia's decision to adopt her policy of "scorched earth." It gave Coventry and Birmingham, Sheffield and Southampton, the right to look Kiev and Kharkov, Stalingrad and Sebastopol in the face. Our Soviet Allies would have been less critical of our inactivity in 1942 if they had understood what we had done.⁵

In passing, the comment must be made that Mr. Spaight in this passage does much less than justice to the services rendered to him and his colleagues of the Air Ministry by the emotional engineers of the Ministry of Information. Without their aid, this splendid decision might well have led to undesired consequences: it was entirely, thanks to what he is pleased to term "propagandist distortion," that the inhabitants of Coventry, for example, continued to imagine that their sufferings were due to the innate villainy of Adolf Hitler without a suspicion that a decision, splendid or otherwise, of the Air Ministry was the decisive factor in the case. Had this suspicion existed, their reaction might have been somewhat different. Is it fair for the famous surgeon to sneer at the contribution of the humble anesthetist which alone renders possible his own delicate operations? Without previous conditioning by the emotional engineer would the activities of the "blockbuster" be tolerated by public opinion?

⁵ J. M. Spaight, *Bombing Vindicated*, London: Bles, 1944, p. 74.

Contemporary publications on the war may be scanned in vain for a clue why the date, May 11, 1940, is in any way memorable. A very close search will, however, bring to light the fact, at the time obscured by far more sensational news, that on the night of May 11th, "eighteen Whitley bombers attacked railway installations in Western Germany." Naturally this announcement when made aroused little interest since it was only claimed these installations had been attacked: it was not suggested that they suffered any injury thereby.

The full significance of this announcement, first disclosed nearly four years afterwards by Mr. Spaight, only appears after further investigation and reflection. Western Germany in May, 1940, was, of course, as much outside the area of military operations as Patagonia. Up to this date, only places within the area of military operations or such definitely military objectives as the German air base on Sylt or the British air base on the Orkneys had been attacked. *This raid on the night of May 11, 1940, although in itself trivial, was an epoch-making event since it was the first deliberate breach of the fundamental rule of civilized warfare that hostilities must only be waged against the enemy combatant forces.*

In default of any further details it must be left to the imagination to picture the eighteen bombers setting forth on the night of May 11th from their base with instructions to drop their bombs when they found themselves over western Germany in the hope that some of them might land on railway installations. To achieve this modest purpose they would have to cross the battlefield, extending from the North Sea to Switzerland, which had suddenly blazed into frantic activity as the German armies hurled themselves to the attack from the Zuider Zee to the Maginot Line in Lorraine. As nothing to the contrary has been recorded, it may be assumed that the eighteen bombers all returned safely and that some of their bombs damaged something somewhere. To the crews of these bombers it must have seemed strange to fly over a battlefield where a life and death struggle was taking place and then on over country crowded with columns of enemy troops pouring forward to the attack, in order to reach the peaceful countryside of Westphalia on the off-chance that some of their bombs dropped there would land on railway installations. The value of their contribution to the great battle in which the fate of France was being decided must indeed have seemed to them

obscure. Yet without realizing it they were turning a major page of history. *Their flight marked the end of an epoch which had lasted for two and one-half centuries.*

How many times during this long period must Mars have sadly reflected on the words of King Draco the Great in Anatole France's *Penguin Island*: "War without fire is like tripe without mustard: it is an insipid thing." What use the great conquerors of the past could have made of these new-fangled flying machines. They had achieved much, certainly, but how sadly they had been hampered by the limited powers of destruction at their disposal. We may picture the shadowy figures of the great conquerors in the days when war had really been war as interested and envious spectators of the doings of those eighteen bombers on that memorable May night: against a background of prosaic twentieth century railway installations we can imagine the grim forms of Assurnazirpal and Sennacherib stroking their squarecut, curled and scented beards with dignified approval; the squat figure of Attila, the King of the Huns; the awe-inspiring shape of the great Mongol conqueror, Genghis Khan, and the forms of his successors, Hulagu, whose destruction of the irrigation system of the Euphrates Valley was so thorough that what for thousands of years had been one of the most prosperous parts of the earth became a desert, the mighty Tamerlane, and a score of others. To these men, at least, the limitless possibilities of this new method of achieving an ancient purpose would have been clear.

These possibilities, however, were at the time realized by few. It was not until much later that it became necessary to find justification for such horrors as took place on that night when the most densely populated parts of Hamburg became a roaring furnace in which thousands of men, women and children were throwing themselves into the canals to escape the frightful heat. The stock apology then put forward was that it was only a reprisal for the German bombing of Warsaw and Rotterdam. Mr. Spaight dismisses this argument with the contempt it deserves. "When Warsaw and Rotterdam were bombed," he points out, "German armies were at their gates. The air bombardment was an operation of the tactical offensive."⁶ Captain Liddell Hart accepts the same view. "Bombing did not take place," he writes, "until the German troops were fighting their

⁶ J. M. Spaight, *op. cit.*, p. 43.

way into these cities and thus conformed to the old rules of siege bombardment."⁷

Bombing Vindicated is a remarkable book: in fact, an amazing book having regard to the date when it was written.⁸ Mr. Spaight is not content merely to admit that upon Britain rests the responsibility for starting the practice of bombing civilian populations, but insists that to Britain must be awarded the entire credit for conceiving and carrying into effect this practice. He derides (p. 149) the suggestion rather half-heartedly put forward at the time by the Ministry of Information that "the whole majestic process had been set in operation" because an unidentified plane had dropped some bombs on a wood near Canterbury. Nor will he admit the splendid decision of May 11, 1940, "was unpremeditated." On the contrary, he insists hotly (p. 38), that this decision can be traced "to a brainwave which came to British experts in 1936," when the Bomber Command was organized—"The whole *raison d'être* of Bomber Command," he tells us (p. 60), "was to bomb Germany should she be our enemy." Further, he says it was obvious that Hitler realized that this was Britain's intention in the event of war, and that he was, in consequence, genuinely anxious to reach with Britain an agreement "confining the action of aircraft to the battle zones." Finally, he agrees that Hitler only undertook the bombing of the British civilian population reluctantly three months after the R.A.F. had commenced bombing the German civilian population, and expresses the opinion (p. 47) that after it had started Hitler would have been willing at any time to have stopped the slaughter—"Hitler assuredly did not want the mutual bombing to go on."

The reader will find the facts of the case set out with frank jubilation by Mr. Spaight in the above-mentioned book, and with the objective detachment of the veteran historian by Captain Liddell Hart in his *Revolution in Warfare*. They are repeated by Air Marshal Sir Arthur Harris in his book, *Bomber Offensive* (1947) by that time much tinged by a marked petulance arising from the dawning realization of the far-reaching consequences of the precedent created by "the splendid decision of May 11,

⁷ Hart, *The Revolution in Warfare*, p. 72.

⁸ Yet this book attracted amazingly little attention. As we have seen, in November, 1945, eighteen months after the truth had been disclosed in this book, the *Daily Mail* could refer casually to "Goering and Co." as the parties responsible for the sufferings of British housewives in the Blitz. See p. 15.

1940." And truly it is a disturbing precedent for the inhabitants of a small densely populated island, now that all the military might, air prowess, and boundless resources of Asia have become no further distant than the Oder.

Air Marshal Harris joins with Mr. Spaight in pouring contempt on the shortsightedness of professional soldiers throughout the world, and in particular in Germany, for not perceiving in the years before 1939 that the heavy bomber would be a far more effective weapon against civilians than against combatant forces. Far from planning a Blitz, he declares that Germany lost the war because, when compelled in September, 1940, to carry out the Blitz, she found that the Generals who dominated the Luftwaffe and regarded the bomber as merely a form of long-range artillery for use in battle, had neglected to equip the Luftwaffe with heavily armed bomber planes designed for a Blitz. "The Germans," writes Air Marshal Harris, "had allowed their soldiers to dictate the whole policy of the Luftwaffe which was designed expressly to assist the army in rapid offensives. . . . Much too late in the day they saw the advantage of a strategic bombing force. . . . the outcome was the German Army had to be deprived of air cover and air support on every front to provide some defense for Germany against independent strategic action in the air."⁹

Mr. Spaight puts the matter in a nutshell when he writes (p. 144): "In Germany and in France the air arm never cut adrift from the land arm: it was tethered to the Army in these countries. In Britain it was free to roam." To this it may be replied that orthodox military opinion holds that it is the duty of a soldier to fight and not to roam. "For Germany," Mr. Spaight continues, "the bomber was artillery for fast moving troops; for France, the bomber was artillery for stationary troops dug fast into the Maginot Line; for Britain, it was an offensive weapon designed to attack the economic resources of the enemy deep within his country."

It is important to note that the "splendid decision of May 11, 1940," was put into effect "General Gamelin notwithstanding." "The French General Staff," remarks Mr. Spaight sadly (p. 70), "had all along a conception of air warfare broadly similar to that of the German General Staff and divergent

⁹ Article in *The Star*, December 12, 1946, by Air Marshal Harris.

from that of the British Air Staff. They viewed with the greatest misgiving any plan by which bombers were to be used for attacks on German industry, and did not hesitate to say so. In their considered opinion the main, indeed the only, use to which a bombing force should be put was to extend the range of artillery supporting armies in the field."

From every point of view Air Marshal Harris' book, *Bomber Offensive*, is a much less illuminating work than Mr. Spaight's *Bombing Vindicated*. Writing in the same spirit, his tone is much more subdued. Substantially, however, he is in complete agreement with Mr. Spaight. He also attributes the failure of the Blitz to the shortsightedness of the Luftwaffe chiefs in not providing themselves in peace time with armed bomber planes designed for attacks on an enemy civilian population, an omission, he declares, which lost Germany the war. Had the Germans been able to persist in their attacks, he writes, London would unquestionably have suffered the terrible fate which overtook Hamburg two years later. But in September, 1940, the Germans found themselves "with almost unarmed bombers . . . so that in the Battle of Britain the destruction of the German bomber squadrons was very similar to shooting cows in a field."

Only with regard to the justification of attacks from the air on civilians can the Air Marshal be said to go one better than the Principal Secretary. When reproached for the inhumanity of this form of warfare, he tells us, it is his practice to confound his critics by quoting to them a British Government White Paper which estimates that the blockade of Europe by the British Navy between 1914 and 1918 "caused nearly 800,000 deaths, mainly women and children," while, on the other hand, indiscriminate bombing by the R.A.F. between 1940 and 1945 probably did not kill many more than 300,000.¹⁰ Apparently, he believes that this retort will leave his critics dumbfounded and abashed.

Certainly this is a novel line of argument which, if it ever secured acceptance in criminal law, would revolutionize the administration of justice. Had it been accepted in his day, Dr. Crippen could have contended successfully that he could not possibly be guilty since no one suggested that he had taken

¹⁰ The actual number killed by all the indiscriminate mass-bombing during the second World War has not been determined, but 2,000,000 would surely be a restrained estimate.

more than one life whereas the late Dr. William Palmer had certainly taken three and most probably twelve lives.¹¹

Messrs. Spaight and Harris speak with the authority of a Principal Secretary to the Air Ministry and an Air Field-Marshal respectively. The facts which they set forth are not open to question by persons like the present writer who lack the expert and inside knowledge which they possess. Yet some may find it hard to credit their interpretation of these facts. According to their joint testimony, prior to 1939 the General Staffs of Great Britain, Germany and France were composed entirely of elderly professional soldiers whose brains, rendered senile by routine and red tape, were incapable of grasping the obvious fact that if bombs were showered from the air upon an enemy power's chief centers of population, its war effort would be affected. Only on the British Air Ministry, and then only thanks to a memorable "brain-wave" in 1936, did this fact dawn, with the result that for three years before the outbreak of war Britain alone was planning accordingly. As a result of the opposition of the French General Staff, it was not until May 11, 1940, that the Bomber Command was permitted to fulfil the purpose for which it was built. Thereafter it was free "to roam"—with consequences with which we are familiar.

It may seem presumptuous but, it is submitted, there is an alternative interpretation which has escaped the attention of Messrs. Spaight and Harris. The men who had risen to the leadership of the General Staffs of Great Britain, Germany, and France may not have been congenital idiots unable to perceive the obvious: they may have fully realized the effect which could be produced by bombing an enemy civilian population and yet have deliberately ruled out the adoption of this policy as contrary to the first principle of civilized warfare. In taking up such an attitude they would only have been following the example of the statesmen of all the nations of Europe for the preceding two hundred years. Frequently tempted to depart from it to gain manifest but temporary advantage, European statesmen since the time of Louis XIV had consistently main-

¹¹ Hawley Harvey Crippen was the central figure in what perhaps is the most celebrated murder trial in English criminal annals. In 1910, Crippen poisoned his wife, buried her in a cellar, and fled with his secretary, Miss Le Neve, to America. He was arrested on his arrival, thanks to use of wireless, then recently introduced. He was convicted and executed.

Dr. William Palmer, the famous poisoner, was executed in 1856 for poisoning a friend whom he had robbed. He had previously poisoned at least a dozen persons at various times and for various reasons, including his wife and his brother.

tained the principle that hostilities must be confined to the combatant forces of the belligerents. They did so because they realized that civilization is a fragile structure inevitably subjected to severe strain even by a war limited by strict rules—by mere “fooling with war” as Mr. Spaight calls it. The exclusion of non-combatants from the scope of hostilities is the fundamental distinction between civilized and barbarous warfare. All other restraints had followed naturally from acceptance of this first principle. If it were abandoned, all else would quickly disappear. Subconsciously, at any rate, it may have been realized by them how thin and fragile was the partition separating civilized man from the passions of the jungle: how civilization itself might not survive the release of the dark forces which would be set free by warfare waged in the manner of primitive times. Victory would then indeed be barren.

At all events, rightly or wrongly, wisely or unwisely, the fundamental principle of civilized warfare was repudiated on May 11, 1940—according to Mr. Spaight, as a result of a “brain-wave” in the British Air Ministry in 1936—and, with the keystone removed, the whole structure of civilized warfare as it had been gradually built up in Europe during the preceding two centuries collapsed in ruins. The assumption became general that a war waged by barbarous methods must inevitably end in a barbarous peace. Faced by this appalling prospect, each side felt any act was justified, providing only that it served even remotely to stave off defeat. As the war proceeded and the prospects darkened, this became more and more openly the German attitude. The entry of the United States and the Soviet Union accelerated the headlong decline of civilized warfare, since, as non-European Powers, neither felt in any way bound to observe the rules of civil war adopted by the European aborigines. In happier days, Europeans had cheerfully disregarded their own rules in warfare outside Europe with non-Europeans: now, for the first time in Europe, Europeans found these rules disregarded by non-Europeans. The entry of the Soviet Union into the war, of course, completely transformed its original character. In a marginal note which was fatuously brought up against him at Nürnberg, Field Marshal Keitel drew attention to the obvious fact that the struggle with the Red Army was not “ein ritterlicher Krieg”—“Hier handelt es sich um die Vernichtung einer Weltanschauung.” (“This is no knightly combat: it involves the destruction of the whole

life philosophy of one side or the other.”) It is characteristic of primary wars that they are never “ritterlich” (knightly) or at most only superficially. The campaigns on the Eastern Front were primary warfare in its grimmest aspect.

Meanwhile, ever increasing quantities of bombs continued to descend on the civilian population of Europe. Upon Germany alone, 5,000 tons were dropped in 1940, 23,000 tons in 1941, 37,000 tons in 1942, and 180,000 tons in 1943, but the speedy collapse predicted when “the splendid decision” was taken on May 11, 1940, did not follow. A hitherto unsuspected flaw appeared in General Sherman’s argument that if an enemy people is made sufficiently uncomfortable they will purchase peace by conceding the points at issue. No such result was achieved following “the splendid decision” of May 11, 1940, because there were no points at issue by conceding which peace could be purchased. The war was unspeakably horrible but, clearly, the peace resulting from such a war would be more horrible still. As Captain Liddell Hart points out, an unlimited aim nullified an unlimited method.¹²

While it failed to achieve the result predicted so confidently, “the splendid decision” led to an unparalleled slaughter of human life. At any rate, one cannot wipe out three-quarters of a city of over a million inhabitants like Hamburg without this result. “The loss of precious lives,” remarks Mr. Spaight, “is to be regarded as the human price that has to be paid for the winning of a military advantage,”¹³ and fortifies himself with the reflection that “Dr. Garbett, the Archbishop of York, has had some wise things to say on this subject,” *inter alia*, “that often in life there is no clear choice between absolute right and wrong.”¹⁴

One wonders whether Mr. Spaight would remark complacently, “The pilot has some wise things to say,” if, when at sea, voyaging among dangerous rocks, the pilot in charge of

¹² Hart, *The Revolution in Warfare*, p. 74.

¹³ J. M. Spaight, *Bombing Vindicated*, p. 148.

¹⁴ Mr. Spaight gives no reference for this quotation, but in his recently published book, *In an Age of Revolution* (London: Hodder & Stoughton, 1952), Dr. Garbett says much the same thing in other words—“In an imperfect world there is not always a clear choice between good and evil.” (p. 294). On the other hand, from this book it appears either that Mr. Spaight was mistaken in claiming that Dr. Garbett shared his views or that, during the last ten years, Dr. Garbett has completely changed his views. Thus, on page 303, Dr. Garbett writes: “the Church must condemn methods of warfare which bring wholesale destruction on all, irrespective of occupation, sex or age. It must condemn the use of weapons which result in indiscriminate and sudden destruction, and the obliteration bombing which reduces great cities to a mass of ruins.”

the ship had remarked to him, "In life it is often difficult to decide whether to steer to starboard or to port."

As long before as 1932, Mr. Churchill had recommended to the British Government of that date that the Disarmament Conference then sitting at Geneva should draw up a code of formal rules to protect non-combatants by restricting bombing to the fighting area. "Yet," comments Captain Liddell Hart soberly, "when Mr. Churchill came into power, one of the first decisions of his Government was to extend bombing to the non-combatant area."¹⁵ Mr. Churchill was not, therefore, announcing any change of policy but was merely reviewing the past when he told a complacent House of Commons on September 21, 1943, "To achieve this (the extirpation of the Nazi tyranny) there are no lengths of violence to which we will not go." In the light of this remark, and the deeds of violence on the part of the British Air Force which Mr. Churchill approved, it is easy to predict how he would have fared, had the Nazis triumphed and Mr. Churchill been tried by a Nürnberg Tribunal conducted by the Nazis according to the principles and procedure followed in 1945-1946.

Reverting to the authoritative work of Air Marshal Harris, *Bomber Offensive*, it is noteworthy that even the gallant Air Marshal's hardihood falters in regard to the mass bombing by some two thousand heavy bombing planes of Dresden on the night of February 13, 1945, when the normal population of "this large and splendid city" was swollen by a terrified horde of women and children from the eastern provinces of Germany in flight from the most dreadful fate which had ever confronted a large European population since the Mongol invasion of 1241. In February, 1945, the war had, of course, long ceased to be a military operation and had become merely the breaking of the desperate but hopeless resistance of a defeated people, the leaders of which faced death and the remainder slavery. Selecting his words with obvious care, the Air Marshal writes, "I will only say that the attack on Dresden was at the time considered a military necessity by much more important people than myself."¹⁶

It will be noted that the Air Marshal pointedly refrains from endorsing the opinion of these important people. He leaves it open to speculation whether this is due to a modest shrinking from associating himself with so much importance

or whether, after reflecting on the facts and circumstances, to sheer horror. It is further to be noted that he attributes this opinion to these important people as held by them only "at the time," from which it may be deduced that he cannot bring himself to believe that any sane person could still hold such an opinion. Finally, it will be noted that he loyally refrains from disclosing the identity of these important people.

An examination of the situation existing at the time of this great mass air raid will provide an explanation of the Air Marshal's studied reticence. In February, 1945, the war had been won and no military purpose remained to be served by indiscriminate bombing. From the East, the Russian hordes were advancing steadily and irresistibly. In the center, they had reached the Oder on a wide front on each side of Frankfurt-an-der-Oder, only 50 miles east of Berlin; on the right wing, the greater part of East Prussia, which for seven hundred years had served as an advanced bastion of Europe against Asia, had been subdued; on the left wing, Lower Silesia had been overrun, although the capital, Breslau, closely surrounded, continued to offer a resistance as heroic as this city had offered the Mongol hordes of Batu almost exactly seven hundred years before. In the West, the armies of General Eisenhower were advancing on a wide front to the Rhine. The surviving German armies in the field continued to resist, not from any lingering hope that defeat could be averted but because their enemies' insistence on unconditional surrender made it seem preferable to a people brought up for generations on the tradition of Frederick the Great to go down fighting to the last. The publication of the infamous Morgenthau Plan had left it in no doubt what were the conquerors' intentions whether Germany surrendered at once or a final stand was made. The only military problem remaining in February, 1945 (if such it can be called), was the question along what line running North and South across Germany the invaders of Germany from the West would meet the invaders of Germany from the East. In fact, the campaign which had commenced on the Normandy beaches in the previous summer had become a mere race with the Soviet hordes, a race in which anything which the Germans could do to retard the progress of the latter, although of no practical benefit to themselves, would be of enormous political value to the Western Powers. Nevertheless, the British and Americans decided to launch a mass air attack on Dresden, then about 70 miles

¹⁵ *The Revolution in Warfare*, p. 79

¹⁶ Air Marshal Sir Arthur Harris, *Bomber Offensive*, London: Collins, 1947, p. 242.

behind the scanty German forces resisting desperately the Russian advance across Lower Silesia.

Very little authoritative information has been available until recently concerning this mass air raid. In books which deal with the last stage of the war, the course usually adopted is to refer airily to the bombing of Dresden as the last of a long series of mass air raids in which it happened that an exceptionally large number of people were killed. As a result of this general reticence little could be added for a long time to the following reference to this air raid published in the *Times* three days after it had taken place:

Dresden which had been pounded on Tuesday night by 800 of the 1400 heavies sent out by the R.A.F. and was the main object of 1,350 Fortresses and Liberators on the following day, yesterday received its third heavy attack in thirty six hours. It was the principal target for more than 1,100 United States 8th Army Air Force bombers.¹⁷

Other British newspapers reported similarly. In none of them was any attempt made to explain why Dresden should have been selected as the target for such a terrific concentration of force. Reference to a guide book will provide no clue. The modern city of Dresden has grown up round the medieval town, now known as the Altstadt, which lies at the southern end of the bridge crossing the Elbe. In the eighteenth century Dresden became one of the great show cities of the world through the construction of a number of magnificent public buildings, all of which were erected in the Altstadt district of the city. Within a radius of half a mile from the southern end of the Augustus Bridge was built a unique group of palaces, art galleries, museums and churches—the Schloss, containing the famous Grünes Gewölbe with its priceless art treasures; the beautiful Brühl Terrasse extending along the left bank of the Elbe; the beautiful Catholic Cathedral; the domed Frauen Kirche; the Opera House; the Johanneum Museum and, above all, the famous Zwinger Museum containing one of the finest collections of pictures in the world, including among its many treasures Raphael's Sistine Madonna, purchased by the Elector, Augustus II, in 1745, for 20,000 ducats. Within this small area, so well known to British and American travellers on the continent, there were, and could be, no munition factories or, in fact,

¹⁷ The *Times*, February 16, 1945.

industries of any kind. The resident population of this district was small. The main railway station of Dresden is situated a mile away to the South and the railway bridge which carries the main line to Berlin is half a mile away down the river.

The following brief details of this raid, which are now well established, are added in amplification of the contemporary report from the *Times* set out above.

On the morning of the fateful February 13, 1945, fast enemy reconnaissance planes were observed flying over the city. The inhabitants of Dresden had had no experience with modern air warfare and the appearance of these planes aroused curiosity rather than apprehension. Having been for so long outside any theatre of war, the city lacked anti-aircraft defenses and these planes were able to observe in complete safety all that they desired. No doubt, they observed and reported that all the roads through and around Dresden were filled with dense throngs moving westward. It is impossible, however, that these throngs could have been mistaken for troop concentrations. It was common knowledge that the German High Command had thrown in its last reserves to reinforce the crumbling battlefronts and consequently there existed no troops which could possibly be massing so far from any fighting. It was also common knowledge that a frantic orgy of murder, rape, and arson was taking place in those districts of Silesia which had been overrun by the Soviet hordes. It should not have been difficult to deduce in these circumstances that many people in districts threatened by the Russian advance would decide to try to escape westwards.

Some hours after night had fallen, about 9:30 p.m., the first wave of attacking planes passed over Dresden. The focus of the attack was the Altstadt. Terrific fires soon broke out which were still blazing when the second wave of attackers arrived shortly after midnight. The resulting slaughter was appalling, since the normal population of the city of some 600,000 had been recently swollen by a multitude of refugees, mostly women and children, their menfolk having remained behind to defend their homes. Every house in Dresden was filled with these unfortunates, every public building was crowded with them, many were camping in the streets. Estimates of their number vary between 300,000 and 500,000. There were no air raid shelters. There were, in fact, no air raid defenses of any kind, unless we so regard the enormous

cloud of stifling black smoke which, after the first attack, covered the city and into which the second and third waves of attackers dropped their bombs. Adding a unique touch to the general horror, the wild animals in the zoölogical gardens, rendered frantic by the noise and glare, broke loose: it is said that these animals and terrified groups of refugees were machine-gunned as they tried to escape across the Grosser Garten by low-flying planes and that many bodies riddled by bullets were found later in this park.¹⁸

Long after the bombing crews had comfortably eaten their breakfasts and retired to rest, having carried out their orders without the loss of a single plane, Dresden remained completely hidden by a vast cloud of black smoke. Parts of the city continued to burn for days. Not one of the famous buildings in the Altstadt mentioned above escaped destruction. Not until months later was it disclosed that some time before the raid the most prized treasures in the Zwinger Museum had been hidden in a place of safety where, in due course, they were discovered by the Russians and carried off in triumph to Moscow. Raphael's great masterpiece of the Virgin and Child now adorns an anti-God museum, a fate which, for a prized masterpiece of Christian art, would in earlier times have been bitterly resented as a reproach by all professing Christians. A few weeks after the raid the Russian forces occupied Dresden. It is possible to claim that this raid achieved the result of accelerating by a few days the progress of the Russian advance. This is satisfactory to some since, otherwise, the painful admission would be unavoidable that the raid had no influence whatever on the contemporary course of events.

The number of casualties will probably always remain a subject for speculation. Most of the victims were refugee women and children. The homes which they left behind them have since been confiscated and are now occupied by foreign squatters. The circumstances made it impossible for the authorities to undertake the task of trying to identify the victims. So enormous were the number of bodies that nothing could be done but to pile them on timber collected from the ruins and there to burn them. In the Altmarkt one funeral pyre after another disposed of five hundred bodies or parts of bodies at a

¹⁸ Graphic accounts of this great mass air raid are given by survivors in *Der Tod von Dresden* by Axel Rodenberger, published by instalments in the weekly paper, *Das grüne Blatt*, beginning February 25, 1951.

time. This gruesome work went on for weeks. Estimates as to the total number of casualties vary between very wide limits. Some put the figure as high as a quarter of a million, and this figure was put forward as the probable total at the Manstein Trial, in 1949, when the court was solemnly considering the charges of inhumanity brought against the German Field Marshal. The Swiss paper, *Flugwehr und Technik*, writes, "In the three great attacks on Dresden the number of dead from reliable sources is reported at 100,000." Having regard to the fact that there were, at the time, over a million people crowded into the city and to the complete lack of air raid shelters, this would appear a very conservative estimate. At all events, the death toll far exceeded that at Hiroshima a few months later.

Father Ronald Knox has confessed himself somewhat disturbed by the thought that the atom bomb dropped on Hiroshima sent tens of thousands to their death without an opportunity to utter a prayer. To the secular mind it may seem that the best that can be said for the dropping of the first atom bomb is that death literally fell from a blue sky on the doomed city. What took place there may seem far less "disturbing" than what had taken place a few months before at Dresden, when dense crowds of homeless women and children had surged this way and that for hours in search of a place of safety in a strange city amid bursting bombs, burning phosphorus, and falling buildings.

For a brief space of time after the raid on Dresden, an attempt was made in certain sections of the British press to represent it as a great and glorious achievement about which there was no occasion for modesty or reticence. Thus, in its issue of February 18, 1945, we find Howard Cowan, Associated Press Correspondent at the Supreme H.Q. in Paris reporting in *The People*:

Allied war chiefs have made the long-awaited decision to adopt deliberate terror bombing of German populated centers as a ruthless expedient to hasten Hitler's doom. More raids such as those carried out recently by heavy bombers of the Anglo-American Air Force on residential sections of Berlin, Dresden, etc., are in store for the Germans with the avowed purpose of keeping more confusion on Nazi road and rail traffic and to sap German morale.

The all-out air war on Germany became obvious with the unprecedented assault on the refugee-crowded capital two weeks ago, and the subsequent attacks on other cities, jammed with civilians fleeing the Russian tide in the East.

The decision may revive protests in some Allied quarters against "uncivilized warfare" but it is likely to be balanced by satisfaction in certain parts of the Continent and Britain.

In the same issue, the Political Correspondent of *The People* added that "enquiries in London revealed that the air decision was taken at a conference held in Supreme Allied H.Q. yesterday afternoon." Concurrently, however, semi-official denials that any such decision had recently been reached appeared in certain newspapers. Several of them dutifully published the unfortunately-worded assurance that "The Dresden raid was designed to cripple communications. The fact that the city was crowded with refugees at the time of the attack was coincidental *and took the form of a bonus*" (italics supplied). Very quickly, however, the controversy subsided. Clearly the word went forth that the subject was one of those which the public must be encouraged to forget.

The mass air raid on Dresden on February 13, 1945, is bound, however, ultimately to take a place among the outstanding events of history. This will come about, not because the death toll broke all previous records or because this raid is distinguished by the fact that it cannot be justified on the ground that it served a military purpose. The mass air raid on Dresden is important because, in this one brief incident, can be found combined and concentrated the tendencies, impulses, strivings, and delusions of the previous fifty years. It was a characteristic product of the epoch which had come to flower in 1914. The outbreak of a world war in that year had appeared to all a monstrous crime and, naturally, a search at once began to identify the arch-criminal in whose mighty and evil brain it had been planned. It seemed logical to believe that when a crime is committed there is a criminal to be found. To the impulsive, neurotic Wilhelm II were attributed supreme gifts of craft and wickedness. Only very gradually was it realized that the parties responsible for the war of 1914 were a number of elderly statesmen, especially Alexander Izvolski and Raymond Poincaré, who had muddled themselves into a position in which each felt himself compelled to risk the utter ruin of his country for issues relatively trivial. So blossomed an epoch of monstrous deeds which were not great, of crimes in which no criminals took part.

The bombing of Dresden is in every way typical. It was certainly not the work of criminals or fiends. The young men

who carried out the raid merely pulled a few levers in accordance with orders. Their feelings were not harrowed by having to witness the result of pulling these levers and their minds had been scientifically conditioned to dismiss anything which they subsequently heard of this result as enemy propaganda. Neither were "the important people" to whom Air Marshal Harris ascribes responsibility necessarily fiends. When their identity is disclosed it will probably be found that personally they were amiable and well-intentioned. But, clearly, like the statesmen of 1914, they completely lacked any sense of proportion. After four years of warfare, their minds had become completely fuddled by their own propaganda. A righteous indignation complex held them in an iron grip. They found themselves with a couple of thousand heavy bombers at their disposal and nothing particular at the moment to do with them. Reports had indicated that, exposed to attack within easy striking distance, was a crowded city with a million enemy citizens. If these important people were aware that this city was famous for its priceless art treasures, its destruction would probably have appealed to them the more as being especially painful to Hitler who was known to prize such masterpieces most highly.

From quite another point of view, also, the destruction of Dresden is of outstanding historical significance. For the first time, Europe experienced the penalty attaching to those conditions of disunity and dissension which had persisted for so many centuries. So long had these conditions persisted that the belief had become established that the Christian peoples of Europe had been granted the right by Providence to indulge with impunity in periodic bouts of killing each other. All appeared well, so long as no non-European Power existed strong enough and presumptuous enough to take advantage of these European civil wars. No overwhelming calamity had resulted to date from these civil wars which, as we have seen, were conducted in accordance with a code designed to reduce loss and damage to a minimum. All remained well, so long as these civil wars were conducted in a comparatively good-humored spirit. But, in the twentieth century, for reasons already examined, in order to win it became necessary to feel hatred for one's opponents. A technique had, therefore, been evolved by which this necessary emotion could be turned on at will like a tap, but, unfortunately, this technique provided no means of turn-

ing it off after it had served its purpose. Seemingly unconscious that conditions had fundamentally changed, the peoples of Europe continued to play their ancient war-game as of yore.

The final and long delayed outcome was reached on the *Schreckensnacht* at Dresden on February 13, 1945. For the first time, the natural penalty was experienced in all its naked horror of indulging in what had become known as civilized warfare with no real assurance or safeguard that this entirely artificial form of warfare might not become transformed into the real thing, warfare as it had been known and practiced by Sennacherib, Genghis Khan, and Tamerlane.¹⁹

The indiscriminate bombing of civilians, enemy cities, and civilian property brought about a terrifying and unprecedentedly destructive reversion to primary and total warfare. But it remained for the war-crimes trials after 1945 to complete the process. One phase of primary and total warfare, as practiced in the past, had been the liquidation of enemy leaders. Such practices had become unthinkable during the era of civilized European warfare. The abandonment of the civilized military code inevitably facilitated a return to this other aspect of primary warfare.

Although this added to the horrors of the second World War and its aftermath, the most alarming result was that it meant that in future wars no type of destructive technique and terrorization would be withheld. Terrible as was the brutality and destruction in the second World War, nevertheless, some of the new scientific and technological means of killing soldiers and civilians were not used, such as deadly poison gas, bacterial warfare, and the like. But the war-crimes trials, by demonstrating that the leaders of a defeated country would be exterminated, meant that in later world wars there would be no such restraint. If defeat means the liquidation of the leaders of the defeated nations, then these leaders can hardly be expected to withhold any means, however horrible and appalling, by which defeat may be avoided. These ominous developments are the subject of the following chapter.

¹⁹ For photographs of Dresden after the bombing, see the front End-paper and Frontispiece of this book.

CHAPTER VII

DOWNFALL

WHEN, at last, the end of the war came in sight, there was naturally world wide speculation as to the conditions of the coming peace. In 1918, the question had been merely how exactly certain well-defined principles should be carried into effect: a quarter of a century later, all principles had been specifically repudiated, so that the public imagination had an absolutely free rein. It was generally agreed that a demand for reparations based on the legal maxim "costs follow the event" would be out of place at the end of an orgy of violence and that the victors should act on the assumption that victory had automatically vested all enemy property in them. There was also general agreement that Adolf Hitler and the members of his Government should be punished by death, although the expectation was that, when further resistance became impossible, they would follow the advice of Brutus:

"Our enemies have beat us to the pit:
It is more worthy to leap in ourselves
Than tarry till they push us."

In primary warfare between civilized states and barbarian invaders, this course has usually been adopted. Thus, in the thirteenth century, when China was being overrun by the Mongol hordes of Genghis Khan and his successors, the Chinese leaders invariably killed themselves and their families rather than fall into the hands of the savages. The Chinese persisted in this practice long after the unrestrained ferocity of Mongol methods of warfare had become considerably tempered by contact with civilized nations. It is recorded that Kublai Khan, the grandson of Genghis Khan, resenting his troops being still regarded as savages, ordered his generals, when a city was captured and the Chinese leaders were found to have committed suicide, personally to visit the bodies in order to demonstrate by a public act of respect, that the Mongols had become a civilized people.

The question of the treatment to be accorded to prominent Germans after the downfall of the Third Reich seems first to have been considered officially at the Teheran Conference in

November, 1943. Elliott Roosevelt was present at this Conference and has published a very frank account of what passed in his presence between his father, President Roosevelt, Mr. Stalin, and Mr. Winston Churchill.¹

According to Elliott Roosevelt, this topic was first broached to everyone's surprise by Stalin at the end of a magnificent banquet at which, Elliott tells us, Stalin had partaken of vodka, "100% proof," while Mr. Churchill "had stuck to his favorite brandy." Rising to propose "the umpteenth toast," Stalin said, "I propose a salute to the swiftest possible justice for all of Germany's war criminals—justice before a firing squad. I drink to our unity in dispatching them as fast as we capture them, all of them, and there must be at least 50,000 of them."

These words appear to have roused something in Mr. Churchill—perhaps a remembrance that he was a European and the only prominent European present. "The British people," he declared roundly, "will never stand for such mass murder! I feel most strongly that no one, Nazi or no, shall be summarily dealt with before a firing squad, without a proper legal trial!"

Thus began the first exchange of views on the then novel idea that, after a victory, there ought to be a general massacre of the leaders of the vanquished. It must be stressed that Elliott Roosevelt does not suggest or hint that one of Mr. Churchill's eyelids flickered humorously when he used the word "trial." On the contrary, he says that Stalin's proposal caused Mr. Churchill to lose his temper hopelessly. The warmth of the British Prime Minister's feelings, he says, amused Stalin, who seemed "hugely tickled," and surprised everyone present. In fact, so exaggerated did his reaction seem over a suggested mass murder of 50,000 persons, that Elliott is reduced to hinting in his book at an extraneous cause for Mr. Churchill's "mounting fury." Far from suggesting Mr. Churchill's indignation was simulated, the whole incident is narrated expressly to contrast the antiquated, pedantic, unreasoning prejudices of the British Prime Minister with the broadminded, man-of-the-world outlook of his father, the President, the crude simplicity of Stalin, and his own consummate tact in an awkward moment.

¹ See Elliott Roosevelt, *As He Saw It*, New York: Duell, Sloan and Pearce, 1946, pp. 188-191, previously published in *Look* (see issue of October 1, 1946). Mrs. Eleanor Roosevelt, the widow of the President, supplies the foreword to her son's book, so that this account of what took place at Teheran must be regarded as the authorized version of the Roosevelt clan, whatever versions others may later see fit to give us.

According to his son, the American President had hidden a smile when this proposal to mass-murder 50,000 Europeans was made. "Perhaps," he remarked genially, "we could say that instead of summarily executing 50,000, we should settle on a smaller number. Shall we say 49,500?"

Elliott Roosevelt hoped that, with this delightfully humorous observation, the subject of mass murder would be allowed to drop, but Stalin stuck to his point and appealed to Elliott for his own views, thus presenting him with a golden opportunity to display his diplomatic tact.

"Isn't the whole thing pretty academic?" Elliott tells us that he replied. "Russian, American, and British soldiers will settle the issue for most of those 50,000, in battle, and I hope that not only those 50,000 war criminals will be taken care of, but many hundreds of thousands more Nazis as well."

Elliott's answer pleased Stalin: "Stalin was beaming with pleasure. Around the table he came, flung an arm around my shoulders. An excellent answer! A toast to my health! I flushed with pleasure." It failed, however, to please Churchill. "He was furious, and no fooling."

There is, of course, no obligation to accept Elliott's story as an accurate objective account of what took place that evening at Teheran, since it is obviously written to glorify President Roosevelt's statecraft, urbanity, and tact at the expense of Mr. Churchill, whom Elliott evidently disliked heartily. Still, in its main outlines, no doubt, Elliott's story should be accepted as approximately accurate. The contrast which he draws between the European attitude and the American attitude rings true. Mr. Churchill's alleged behavior would have been quite natural in the circumstances in which he found himself—as a European, he was in a false position, knew it, and the knowledge frayed his nerves. Intending to caricature Mr. Churchill, Elliott Roosevelt has drawn a picture of him which will be much more acceptable to Mr. Churchill's admirers in the future than the picture which Elliott at the same time drew of his own father will be to the latter's admirers, or to the latter's European admirers at least.

What Elliott Roosevelt says took place at Teheran is entirely consistent with what we all know took place later. At Nürnberg, the proceedings were outwardly European, but throughout the driving force behind them was Russian. At Teheran, Stalin proposed a mass murder of 50,000 persons—a round fig-

ure. President Roosevelt suggested that Mr. Churchill's objection might be overcome by reducing the mass murder by five hundred—another round figure. Elliott Roosevelt, thereupon, expressed the hope that the number of victims would, in fact, be increased to hundreds of thousands—that is to say, substituting an indefinite figure for a round figure. Finally, the subject was dropped as "academic." So long as a sufficient number of victims died, preliminary procedure was not worth quarrelling about. The result was a compromise by which all three parties carried their points. Ultimately, the American solution was carried out: Mr. Stalin had his mass murder and Mr. Churchill his trial.²

When this book was first written in July, 1948, no other record of this memorable episode of the Teheran Conference existed except that of Elliott Roosevelt. In the British press at the time his version was by common consent dismissed as inherently improbable. In 1948, the illusion was still rigidly maintained in Great Britain that Stalin was inspired by the same lofty principles that Mr. Roosevelt and Mr. Churchill were supposed to entertain. It was, therefore, held to be unpatriotic even to mention that Elliott Roosevelt had attributed so outrageous a proposal to a hero who was considered to have atoned for a mirky past by his noble conduct during the war. Although Stalin had of late been acting strangely, as one of the leading figures in the great and glorious anti-Nazi crusade, he was still entitled to claim that his loyal allies should disbelieve any facts to his discredit.

Recently, however, an alternative account of this episode has become available from the pen of Mr. Winston Churchill himself, in the installment of his war memoirs entitled *Closing the Ring* (1952). True, Mr. Churchill complains that Elliott's version is "highly colored and extremely misleading," but, in fact, his own version confirms Elliott's account of the essential point of the story. At this banquet at Teheran, Mr. Churchill says that Stalin pointed out that Germany's strength depended upon 50,000 officers and technicians and, if these were rounded up and shot, "German military strength would

² Not until the Iron Curtain is lifted shall we know how many Germans captured on the field of battle or arrested after the termination of hostilities by the G.P.U., were done to death either summarily or after some form of trial. Including those liquidated in Prague and Warsaw, and those lynched in remote districts, the total probably far exceeded Mr. Stalin's stipulated figure of 50,000.

be extirpated." In spite of Mr. Churchill's indignant protest these 50,000 must be shot, Stalin insisted.

The two versions therefore agree that a massacre of 50,000 persons when victory was achieved was proposed by Stalin at the Teheran Conference but, whereas Elliott says these 50,000 were to be "war criminals," Churchill says they were to be the officers and technicians upon whom German strength depended.

On the latter detail—a very significant detail certainly—Mr. Churchill's version is greatly to be preferred. What Stalin clearly had in mind was a massacre similar to the Katyn Forest Massacre which the Soviet authorities had carried out only three and a half years before. Except that it would have been on a far greater scale, what Stalin proposed, when German resistance should be overcome, was a massacre which would have served the same purpose and have had the same justification as the Katyn Massacre—these German officers and technicians, like the Polish victims at Katyn, were members of a class which was unassimilable by Communism. As a Marxist, it was natural that Stalin should frame his proposal in the way in which Mr. Churchill says he framed it. It was equally natural that Elliott Roosevelt, knowing nothing of Marxian ideology, should quite guilelessly have assumed that Stalin must have intended to propose the mass execution of criminals, and so, without intending to mislead, he interpreted Stalin's words in his own bourgeois phraseology.

None of the other details upon which Elliott Roosevelt's version and Mr. Churchill's version conflict, merit examination here. Mr. Churchill agrees that Stalin's proposal made him angry—it is possible that, as early as this, he had formed more than a suspicion of the truth concerning the Katyn Massacre and, in consequence, realized exactly what Stalin had in mind.

As a European, learned in the history and the traditions of Europe, it was natural that, to Mr. Churchill, the proposal to shoot a round figure of 50,000 persons as and when made prisoner, should appear as mass murder. So it would have appeared to any European statesman for the past two hundred and fifty years. To them, it would have seemed a reversion to the times of the great Mongol conqueror, Genghis Khan, whose regular practice it was, when he captured a city, to bring forth the inhabitants and to force them to kneel in rows, the men in

one group, the women in another, and the children in a third, so that their bowed heads might be neatly sliced off and stacked in pyramids to facilitate counting. Genghis Khan adopted this practice, as Mr. Harold Lamb points out, in pursuance of his policy to surround his dominions—approximately the present dominions of the Soviet Union—with a wide zone of devastated and depopulated territory. The majority of readers would no doubt describe such a practice as mass murder. But surely this must be illogical in terms of Allied policy after 1940. We are assured that unrestricted bombing is not murder because it is carried out impersonally in pursuance of a policy—in consequence of “a splendid decision.” What hair-breadth distinction can here be drawn? Genghis Khan slew myriads of people quite impersonally in passionless pursuance of the “splendid” foreign policy which he had adopted for the protection of his empire.

Similarly, the proposal artlessly put forward to his allies by Mr. Stalin at Teheran was certainly murder according to traditional European standards, but it was entirely in accordance with orthodox Marxian theory. As the main driving force throughout the proceedings at Nürnberg came from the Soviet Government, to understand these proceedings it is imperative to understand the Marxian viewpoint with regard to the liquidation of political opponents. A great deal of nonsense has been talked in capitalist circles, partly deliberately and partly from ignorance of Marxian ideology, concerning the liquidation of individuals and classes by Communist authorities. The *raison d'être* of a Communist government, according to Karl Marx, is to build up a proletarian system of society. When persons or classes of persons are found who cannot be fitted into such a society, they are “liquidated,” that is to say, put to death. No more question of justice enters into the matter than when, for example, a botanist who is trying to establish a new variety of flower with certain qualities of color, height, shape of petals, etc., by selecting specimens possessing the desired qualities, ruthlessly throws aside those specimens lacking those qualities. If he is seeking a variety with, say, a long stem, he has no intention of punishing short-stemmed specimens when he tears them up and discards them. Now, obviously, a man like Hermann Göring could not be made to fit into a proletarian system of society. What else, therefore, could be done

with him but eliminate him? No question of punishing him enters into the matter. In fact, in the abstract, a Communist might even admire him as an individual in the same way as one might admit that a lion roaming about Piccadilly Circus was a noble animal, a masterpiece of nature produced by ages of evolution, and was only devouring people in accordance with its perfectly natural instinct. One might become lyrical concerning its courage and beauty and yet quite reasonably maintain that there was no alternative to removing by violence a creature which would obviously be a disturbing influence to the human life around it. In this entirely passionless spirit, Lenin and Dzerzhinsky had eliminated the aristocratic and plutocratic classes of Czarist Russia and tens of thousands of Orthodox bishops and priests after the Revolution of 1917. To complain that many innocent persons perished in the Red Terror is entirely to miss the point. The great majority perished, not because they were deemed guilty of any particular offense, but because they could not be assimilated by the new proletarian state then being created.

It must surely be conceded that Hermann Göring and his colleagues had demonstrated that they were opponents of Communism. This being so, no further argument or justification was needed. How could they expect a different fate from that which, for example, had recently overtaken the anti-communist classes of such tiny and inoffensive states as Esthonia, Latvia, and Lithuania, when these states were overrun by the Soviet armies in 1939?

When, therefore, Mr. Stalin suggested at Teheran that the German leaders should be shot by a firing squad, as and when captured, he was speaking with the strict orthodoxy which might be expected from one upon whom the mantle of the great Lenin had descended. As an Asiatic, Stalin was also, of course, following faithfully in the tradition of Genghis Khan, Hulagu, and Tamerlane.

Unfortunately, from the point of view of the ultimately predestined victims, this simple, logical, expeditious and even humane solution did not appeal to Mr. Stalin's allies. If Hermann Göring would be an anachronism in a proletarian paradise, so, equally, would Mr. Churchill and Mr. Roosevelt. These gentlemen could hardly subscribe to the view that the liquidation of Hermann Göring was merely a matter of biolog-

ical selection—the elimination of an unwanted type. Possibly, it was this humorous aspect which caused Mr. Stalin's eyes to twinkle so merrily. Further, in capitalist societies, the conventional practice demands that before a man can be done to death, he must be accused of something, tried, and pronounced guilty. The Soviet Government proved most accommodating: so long as liquidation was reached in the end, it was of no consequence what preliminary juridical fooleries were indulged in to satisfy capitalist susceptibilities.

An obvious alternative to the carrying out of Mr. Stalin's proposal for a summary mass-slaughter on the lines carried out by the medieval Mongols, was a mock-trial along the lines which may be said to have originated, or at least to have been perfected, during the preceding twenty years in Soviet Russia. But disposal by mock-trial was a conception both novel and repugnant to contemporary European juristic thought. Finally, as a compromise, it was decided that the prisoners should be charged with certain specific offenses, that the charges should be heard by a tribunal composed of representatives of the four chief victorious Powers, and that the prisoners should be heard in their own defense in accordance with normal practice, excepting only they should be debarred from challenging the jurisdiction of this tribunal to try them.

As supremely able opportunists, neither Mr. Roosevelt nor Mr. Churchill was interested either in the theoretical justification for this solution or in the consequences which, in the fullness of time, must inevitably flow from it. His cheerful acceptance of the Morgenthau Plan shows that Mr. Roosevelt felt no compunction at the idea of reducing, by systematic looting and sabotage, a prosperous industrial state of eighty million inhabitants to a defenseless and poverty-stricken agricultural community. Why then should he shrink from the proposal to put out of their misery by shooting some 50,000 individuals, some of whom may not have deserved much of their fellow-men? As a practical politician, his natural inclination was towards ruthless measures which, it might be assumed, would be welcomed by several very powerful sections of the American electorate as a reprisal for the ruthless anti-Jewish and anti-democratic policies of the Nazi Government. He was also deeply concerned to prevent any difference of opinion between his cantankerous allies standing in the way of victory.

On his part, Mr. Churchill's sole concern was to avoid anything which might weaken the joint war effort. Unlike the President, he entertained no illusions concerning the Communist rulers of Russia: for twenty years he had been denouncing them as "bloody baboons," "crocodiles with masterminds," and "the foul, filthy butchers of Moscow." But not least among his many gifts was a remarkable capacity to dismiss from his mind his previously expressed opinions, if the occasion and expediency required it. Two years before he had convinced himself that no price—not even the dissolution of the British Empire—was too high to pay to achieve victory. This unsatisfactory compromise with Stalin seemed in comparison a very small concession. His mind had always been the exact opposite to the judicial: he knew nothing and cared less about the legal difficulties in the way of a trial in which the victors would sit in judgment and decide their own charges against the vanquished. No doubt, he had genuinely convinced himself at the moment that Hitler and his colleagues were guilty of abominable crimes. Should they escape punishment through the lack of a court with jurisdiction to try them? With a score of urgent problems demanding his immediate attention, was it not natural that Mr. Churchill should dismiss the subject with the reflection that, when the time came, it should not be beyond the capacity of his legal advisers to work out a scheme for the proposed trials which would be free from technical objections and, while upholding the proud traditions of British justice, would satisfy Mr. Stalin by providing for the liquidation of many prominent opponents of Communism, and would satisfy Mr. Roosevelt by assuring for him and the Democrat Party a solid bloc of gratified voters in doubtful states at the next Presidential election?

It hardly need be added that it occurred to no one at Tehran to suggest that all persons, whatever their nationality, accused of committing crimes during the war, should at its conclusion be put on trial. How Mr. Churchill would have flared up at any such suggestion can be deduced from his heated reaction at Yalta on February 9, 1945, when the question arose of establishing trusteeships for backward peoples. According to notes taken then by Mr. James F. Byrnes, Mr. Churchill declared:

After we have done our best to fight in this war and have done no crime to anyone I will have no suggestion that the British Em-

pire is to be put into the dock and examined by everybody to see whether it is up to their standard. No one will induce me as long as I am Prime Minister to let any representative of Great Britain go to a conference where we will be placed in the dock and asked to justify our right to live in a world we have tried to save.

It should not be overlooked that, when the term "war criminal" was used at the Teheran Conference, in 1943, it was a legal term long recognized with a precise and definite meaning. A "war criminal" was one who had committed a "war crime," and a "war crime," as defined in the military manuals of all civilized countries, was a breach of the rules of civilized warfare, that is to say, a breach of those rules adopted at the end of the seventeenth century by the European nations for the conduct of their wars with each other. It comprised such matters as the ill-treatment of prisoners, hostilities committed by individuals not being uniformed members of the armed forces, espionage, and looting. The term was strictly limited to specific acts committed in the conduct of a war: it was never applied to the aims and objects of those responsible for commencing a war, however indefensible these might be.

Eighteen months were to pass before the compromise agreed upon at Teheran could be put into effect, but, in due course, the Law Officers of the Crown received instructions to consult with the American, Russian, and French legal authorities, in order that a plan might be prepared for the trial of the German leaders after unconditional surrender had taken place. For learned and experienced lawyers, the task was both invidious and thankless. It was invidious because it entailed setting at naught the principles in which they had been trained during their whole lifetime. It was obvious that only a small proportion of the prisoners were war criminals according to the accepted definition of the term. The only way out of the difficulty was to create new offenses and then to assert that anyone who had in the past committed these offenses should be deemed a war criminal. Retrospective legislation has always been abhorrent to lawyers and it must, in consequence, have been particularly distasteful to the learned Law Officers of the Crown to frame charges alleging that criminal acts had been committed before these acts had been declared crimes. Even more distasteful must have been the necessity of giving effect to the decision of the politicians that at the coming trials "the Tribunal should not be bound by technical rules of evidence" but could admit

"any evidence which it deemed to have probative value," that is to say, might help to support a conviction.³

Obviously, this innovation, if regarded otherwise than as a temporary expedient to secure convictions, would place lawyers generally in an embarrassing dilemma. The accepted rules of evidence had been gradually established through the centuries with the express purpose of arriving at the truth of a charge with as much certainty as was humanly possible. Regarded in this light, the rules of evidence had, for hundreds of years, been jealously guarded by the courts of law in England and America. Did this decision to dispense with the rules of evidence entail an admission that these rules did not really help in arriving at the truth? But, in that event, these rules should obviously be declared obsolete and abolished henceforth in all courts of law. The only possible alternative to this far-reaching and, to lawyers, painful conclusion was that, although the rules of evidence were still necessary for arriving at the truth in all judicial trials, yet in a trial of a prisoner of war by his captors they were out of place, since in such a trial the object was not to ascertain the truth but to secure a conviction.

Naturally, no professional lawyer is willing to admit that the truth in a normal judicial trial could just as readily be ascertained without the rules and safeguards which centuries of experience have proved so necessary. On the other hand, it was imperative to repudiate at all costs the suggestion that there was a fundamental distinction between a judicial trial and the trial of a prisoner of war by his captors.

For months, the eminent lawyers instructed to prepare for the trial of the German leaders struggled with their task which, as we have remarked, was not only invidious to them as lawyers but entirely thankless, since in the eyes of the man in the street the task presented no difficulties whatever. The guilt of the German leaders could not be in question because the press and the radio unanimously asserted it. That the persons whom it was proposed to try were criminals, even before the charges against them had been decided, was as clear to the man in the street as it was to Dr. Garbett, the Archbishop of York, who on March 20, 1945, in an outburst of enthusiasm, explained to the House of Lords: "It is for the sake of justice, for the vindica-

³ See Article 19 of the Charter attached to the London Agreement.

tion of that underlying sense of the difference between right and wrong, which makes us demand that these criminals should receive their punishment."

What need was there, in such circumstances, for complicated arrangements and technicalities? What better precedent could be adopted, slightly adapted perhaps to comply with present-day susceptibilities, than that provided in 1539 by the great Englishman, King Henry VIII, equally distinguished as a pious defender of the faith and as a tireless wielder of the sword of justice. Having detained the aged Richard Whiting, Abbot of Glastonbury, in the Tower for many months without preferring any charge against him, Henry at length decided it was time that "the criminal should receive his punishment," for which purpose he should be returned to his native Somerset. The order to His Majesty's judges has been preserved: it is in the handwriting of Henry's chief minister, Thomas Cromwell, and reads:

The Abbot of Glaston to be tried at Glaston and also executed there with his complycys. See the evidence be well sorted and the indictments well drawn.

It must be acknowledged that this direction is a model of brevity and lucidity. The stupidest judge could have been in no doubt as to what was required of him. A slight but unmistakable note of menace may be detected in the last sentence and we may be sure that the evidence was "well sorted" and that there was no slipshod work in the drawing of the indictments. In fact, no hitch of any kind delayed the fulfilment of the royal wishes. Very shortly afterwards, on a grey November morning, the underlying sense of the difference between right and wrong was vindicated by the hanging and quartering of Abbot Whiting "and his complycys" on Glastonbury Tor.

Probably, the promoters of the Nürnberg trials were unfamiliar with this striking Tudor precedent. Perhaps, they rejected it as too simple for service at the present day. At all events, the unfortunate lawyers were directed to ransack the pages of history for a more modern precedent. No doubt, in their search they came across and noted with approval the dictum of Oliver St. John, the Solicitor-General, during the debate in the Commons preceding the judicial murder of Thomas Wentworth, Earl of Strafford, in 1641: "No evidence is neces-

sary if each man *feels* in his mind that the accused is guilty." And St. John provided a precedent for the Nürnberg distinction between the victors and losers in the war by his statement that: "We give law to hares and deer because they be beasts of chase, it was never accounted cruelty or foul play to knock foxes and wolves on the head as they can be found, because they be beasts of prey."

The only really recent precedents which existed for the proposed proceedings at Nürnberg were the various political mock-trials which had taken place in Russia from the Revolution in 1917 onwards. It is, therefore, necessary to glance briefly at these mock-trials in Russia in order to realize how widely they departed from judicial trials in other countries and to consider to what extent they differed from the procedure later adopted at Nürnberg.

In a normal judicial trial, the result depends on the judgment of independent third parties no more connected with the prosecution than with the defense. In a political trial in Soviet Russia, on the other hand, the judges and prosecuting counsel together form a team: the proceedings are an act of state, and the result is a foregone conclusion. Neither the victim nor the prosecution are concerned with the figures duly arrayed as judges on the bench. The role of the latter is purely ornamental: their only active part is to read, when all is over, the judgment and sentences previously decided upon by the executive government. The speeches for the prosecution are political manifestoes, designed to justify the action of the government in instituting the proceedings and are directed, not to the Court, but to the outside public. At times, even a communist dictatorship must justify its actions to its subjects. Thus, in 1936, when it was decided to liquidate Zinoviev, Kamenev, Smirnov, and other prominent Soviet leaders whom the Russian public had been long taught to revere as heroes of the revolution, some kind of explanation for a political somersault of this magnitude had to be offered to the man in the street. It was found that the most convenient manner of putting forward such an explanation was in the form of a speech for the prosecution, delivered after dictated confessions of guilt had been recited by the accused and before the death penalty had been recited by the Court. In normal mock-trials, all other roles are ancillary to that of the public prosecutor. The judge is a mere lay-

who recites a few set words when all is over.⁴ Occasionally, as at the mock-trial of the G.P.U. chief, Henry Yagoda, charged with the murder by poison of the novelist Maxim Gorky, the judge enlivens the proceedings by what in the parlance of the music halls is termed "gagging." But "gagging" in a normal mock-trial is exceptional and irregular and is tolerated only as a relief from the tedium of long proceedings or when the public prosecutor fails to put over the government manifesto as well as might be desired.

It would be futile to attempt an inquiry as to whether anyone really believed, for example, that Yagoda was guilty of crimes of which he was accused. That Yagoda was guilty of countless crimes there can be no doubt—Mr. Stephen Graham called him "the worst villain of the Revolution"⁵—but it is difficult to see what motive Yagoda could have had to finish off by poison a septuagenarian novelist already dying of senility. Probably Stalin troubled himself very little on the point, which he had no strong opinions. To him, it was merely a matter of routine practice that a G.P.U. chief, discarded as no longer useful to the regime, should be liquidated.

In *Russian Purge*,⁶ the authors, themselves prominent Soviet agents who were victims of the great Purge of 1936-1939 but spared with their lives, express surprise that the delusion should persist in the West that, in Soviet Russia, there exists any necessary connection between a man's arrest and any particular offense alleged against him. In the vast majority of cases, persons were arrested during the Purge for having "objective characteristics," which means, in Marxian legal jargon, that they belonged to one or another of a dozen categories which the executive government had decided, "as a measure of national security," to eliminate or suppress. The precise charge, assigning these unfortunates within the Soviet Criminal Code on which, in due course, they would be sent to a term of forced labor or to execution, was decided much later. In the United States and in Great Britain, the functions of the judiciary and the functions of the executive are kept rigidly distinct. But, under Soviet law, the executive exercises the widest judicial

powers. The vast majority of political prisoners are dealt with by the executive: only one case, here and there, is passed on to the judiciary for what is called in the above-mentioned book "a show trial." In these cases, the duty of the judiciary is limited by law to rubber-stamping, for propaganda purposes, the judgment of the executive government.

Handicapped, on the one hand, by their own legal learning and, on the other, by their profound ignorance of Marxian ideology, the English and American judges were pained and puzzled by the Alice-in-Wonderland atmosphere which, as a result of the dual character of the proceedings, prevailed at Nürnberg and which they strove in vain to dispel. Yet nothing, in fact, could have been simpler or more logical than the Marxian attitude to the trial. The prisoners were members of a political party established by Adolf Hitler for the express purpose of combatting Communism. Their "objective characteristics" could not, therefore, be in dispute. Not punishment was called for in such a case but the exercise of "the supreme measure of social security," which in Marxian terminology means the carrying out of a sentence of death.

The readiness with which the lawyers of Western Europe and the United States adopted the precedents supplied from the administration of justice in Soviet Russia may appear surprising until it is recalled that, at the termination of hostilities, a state of almost universal frenzy prevailed. During the eighteen months between the Teheran Conference and the final collapse of the Third Reich, the conduct of the war by both sides had rapidly become more and more ruthless and ferocious. The demand for unconditional surrender, first proclaimed at Casablanca in January, 1943, had filled the German people with desperation, particularly after it had been disclosed that, among the proposals of the Soviet-inspired Morgenthau Plan, adopted by Roosevelt and Churchill in Quebec in September, 1944, was the destruction of all industrial plants in Germany and the flooding of the Ruhr mines.⁷ The originally comparatively

⁷ In a nutshell the Morgenthau Plan was designed to bring about, artificially, in Germany the conditions of poverty, distress, and degeneration existing at that time in parts of the American South as a result of natural economic causes, which have been so graphically described by Erskine Cardwell in *Tobacco Road*. Mr. William Henry Chamberlin, in his book, *America's Second Crusade* (Chicago: Regnery, 1950, p. 306), writes as follows: "It is no exaggeration to say that the Morgenthau Plan, accepted by Mr. Roosevelt and Mr. Churchill at the Quebec Conference in September, 1944, if applied in all full rigor, would have been an indiscriminating sentence of death for millions of Germans." It has now been proved that the Morgenthau Plan, like the Nürnberg Trials, originated with Stalin. See John T. Flynn, in *American Mercury*, July, 1953, p. 57 ff. On its results, see Freda Uteley, *op. cit.*

⁴ Montgomery Belgium points out, in his *Victors' Justice*, p. 76, that, at Nürnberg, "the Russian prosecutor was a lieutenant-general but the senior of the two Russian judges was a major-general." The former was the spokesman of the Soviet Government; the latter had more active role to play than Henry VIII's judges at Glastonbury.

⁵ Stephen Graham, *Stalin*, London: Hutchinson, 1939, p. 137.

⁶ Beck and W. Godin, *Russian Purge*, London: Hurst & Blackett, 1951, p. 87.

ADVANCE TO BARBARISM

dly relations between the inhabitants of the occupied
tries and the occupying forces had gradually disappeared
the resistance movements, organized and financed by Great
ain and the United States, increased in strength and daring.
ign of terror had set in: every sentry stabbed, every train
iled, and every bridge blown up was followed by brutal
als by the Gestapo which only served still further to in-
e public feeling. Collaboration, as it was labelled, had
me the blackest of crimes, punishable by murder or mu-
ion. Only as between the combatant troops had the tradi-
al usages and courtesies of European civil warfare been
ntained. Yet, even on the battlefield, a change had grad-
y taken place. The notorious massacre of American prisoners
almédy in December, 1944, which led to the equally noto-
s trials of the alleged perpetrators at Dachau may be cited
ne example. The wanton destruction of the Monte Cassino,
most famous monastery in Europe, since described by Gen-
Mark Clark as a "tragic mistake," may be cited as an-
er.⁸ By May, 1945, passions had reached fever heat.

It was hardly to be expected that, in this atmosphere, the
ors would be satisfied with putting to death a few dozen
minent leaders of the National Socialist Party, together with
se individuals who could be proved by legal methods to
e committed war-crimes as limited by the universally ac-
ted definition of this term. Themselves filled with the pre-
ing lynching spirit, the lawyers set to work to formulate
prehensive new offenses so vague and elastic that virtually
one who had taken a prominent part on the vanquished
s, whether as a general, an admiral, a civil servant, or a
ufacturer of war material, could be charged with them.
e final outcome was embodied in an agreement signed on
gust, 8, 1945, and the so-called Charter attached thereto.
his agreement was—most unfortunately—signed in London,
as become known as the London Agreement.

The subject of this book is a survey of human progress
ough the ages in reference to war, and, in particular, to the
arkable retrograde development which set in about half a
ury ago. One outstanding landmark of this retrograde de-
pment is the outbreak of war on August 1, 1914. Another
ne "Splendid Decision" of May 11, 1940, so acclaimed by

se General Mark Clark, *Calculated Risk*, London: Harrap, 1951.



—Wide World Photos.
Chief Nazis defendants in the Nuremberg Trials. Front row, left to right: Hermann
Göring, Rudolf Hess, Joachim von Ribbentrop and General Wilhelm Keitel. Back row,
left to right: Admiral Karl Dönitz, Admiral Erich Raeder, and Baldur von Schirach.



—Wide World Photos

General Wilhelm Keitel rises to plead "Not Guilty" to his indictment during the second day of the Nuremberg Trials. Seated to his right are Joachim von Ribbentrop, Rudolf Hess and Hermann Göring.

Mr. Spaight, which was dealt with in the preceding chapter. A third is, unquestionably, the London Agreement of August 8, 1945, by which the victors of the Second World War purported to bestow upon themselves the right to put on trial the vanquished. The details of this document require, therefore, some examination.

The London Agreement was an agreement between the British, American, French, and Russian Governments to establish a body to be called the International Military Tribunal for the trial of major war criminals "whose offenses have no particular geographical location." No definition was given of the term "major war criminals" except that the right was reserved by each victorious state to try, according to its own laws, any war criminal in its hands for offenses committed on its own territory. Attached to the Agreement and forming an integral part of it was a sort of schedule, grandiloquently labelled "The Charter," which purported to define the powers of the Tribunal and the procedure which it was to adopt.

On the face of it, therefore, the London Agreement was nothing more than a private arrangement between four sovereign states to put on trial captured subjects of another sovereign state. Had the contracting parties been, say Costa Rica, Nicaragua, Honduras, and Salvador, such an agreement would only have been of interest as an indication of how little the elements of jurisprudence were understood in these countries. The fact that the four parties to the London Agreement happened to be the four most powerful states in the world at the time, clearly could have no bearing on the question whether its terms were in accordance with international law. The tribunal which it created was not an international body, except in the sense that more than one state was represented on it. It was simply a gathering of legal officials appointed by four states in accordance with a private arrangement between themselves.

The most important part of the so-called Charter is Article 6, which purports to create two new crimes against international law. The first is labelled "*Crimes against peace*," which it defines as "planning, preparing or waging a war of aggression or a war in violation of international treaties." The second is labelled "*Crimes against humanity*," which it defines as "inhumane acts against any civilian population before or during the war and persecutions on political, racial or religious grounds."

With regard to the first of these novel creations, the framers of the Charter had abandoned in despair a desperate attempt to define "a war of aggression" without impliedly condemning Russia for her numerous unprovoked attacks on her neighbors, beginning with her attack on Finland, in 1939, and ending with her more recent attack on Japan, in 1945, in defiance of the Non-aggression Pact which she had signed with that country. With regard to the second novel crime created by the London Agreement, precise definition was obviously equally impossible at a moment when the victors were carrying out mass deportations of populations totalling some fourteen millions and entailing indescribable misery. In most cases, these deportations followed extensive mass murders carried out in the homelands of the populations condemned to deportation.

It is, perhaps, hardly necessary to comment on the fundamental injustice of inventing an *ad hoc* law and then bringing charges alleging acts in breach of this law committed before this law existed.

The fact is that the victors, in 1945, decided to set themselves a problem unparalleled in civilized times and they solved it by a compromise of unparalleled audacity. The so-called "International Military Tribunal" which they created was truly an extraordinary body in more senses than one. To its non-Marxian members, the task before the Court was to decide whether the prisoners were guilty or not guilty; to its Marxian members, the task before the Court was the elimination of certain avowed opponents of Communism. The only link between the members was a common determination to prevent any hitch arising from these irreconcilable outlooks. Later, this determination was strengthened by the personal goodwill and respect which grew up between the members of the Court. It is no matter for surprise that the proceedings ended with a mass-hanging of the prisoners, but, in view of the composition of the Court, it is remarkable that there was so little friction during the trial, there being at the end a perfect crescendo of mutual congratulation. The Judges, Marxian and non-Marxian, praised each other and Counsel; Counsel thanked the Judges and each other. The British representative paid the time-honored tributes to British Justice and generously admitted the merits of the various foreign legal systems, and the foreign representatives praised British Justice and each spoke favorably of his own country's system of administering justice. To the

extent, at least, of the four countries taking part, rarely has there been such a demonstration of international amity.

Nevertheless, there is reason for doubting whether the non-Marxian members of the Tribunal ever comprehended the distinctive outlook of their Soviet colleagues. How genuine was the goodwill and how complete this incomprehension were strikingly demonstrated some three years after the close of the Nürnberg trials. Although, by this time, public opinion in Great Britain and in the United States with regard to the Soviet Union had completely changed, we find Lord Justice Lawrence, now become Lord Oaksey, who had acted as President of the Tribunal, hotly resenting an attack on Russia's participation in the proceedings as a reflection not only on himself but on his Soviet colleagues. Speaking in the House of Lords on May 5, 1949, Lord Hankey had declared that "there was something cynical and revolting in the spectacle of British, French and American judges sitting on the Bench with colleagues representing a country which before, during and since the trials had perpetrated half the political crimes in the calendar." Speaking in reply, on May 19th, Lord Justice Lawrence declared that Lord Hankey's observations were "insulting to my Soviet colleagues, to Mr. Justice Birkett and myself. The Soviet Judges demonstrated their ability and fairness."

The relevance of this reply may appear obscure. Lord Hankey had merely expressed the surprise, long felt by many, that the Soviet Union, having so recently wantonly attacked Finland, conquered and annexed Esthonia, Latvia and Lithuania, and deprived Roumania by force of Bessarabia, should, nevertheless, have been considered eligible to participate in a trial of the leaders of another Power, charged with having waged a single war of aggression. Lord Justice Lawrence's reply was that there was no ground for surprise because the individuals sent to represent the Soviet Union at the trial turned out to be able and fair-minded.

We may, of course, readily accept Lord Justice Lawrence's testimony that his two Soviet colleagues impressed him as able and fair-minded men. Lord Hankey had, in fact, expressly admitted that they may have been "impeccable as individuals." For all we know to the contrary, they may also have been excellent husbands and fathers, profound students of botany, expert mountaineers, or ardent philatelists. But what bearing could their personal gifts, virtues, and tastes have on Lord

Hankey's contention that the participation in the Nürnberg Trials of a state with the record of the Soviet Union was "cynical and revolting." Even Lord Justice Lawrence must surely have become gradually conscious of the Alice-in-Wonderland atmosphere that the participation of the Soviet Union conferred on the proceedings, and which platitudes about humanity and denunciations of aggressive warfare, as the supreme international crime,⁹ however impressively and pompously expressed, failed utterly to dispel.

It is hard to believe that Lord Justice Lawrence had never heard of that series of political trials which began in Russia, in 1936, known to history as the Great Purge. Apparently, however, he was not aware that these trials were conducted in accordance with a novel and distinct system of law, of which the only effective principle familiar to jurists in the rest of the world was the Roman maxim, *Salus populi est suprema lex*, adapted to mean, "What in the opinion of Joseph Stalin is necessary for the safety of the Communist Party is the paramount law." In the years following 1936, Joseph Stalin came repeatedly to the opinion that the safety of the Communist Party necessitated the liquidation of one or another of the famous men who had helped Lenin to bring about the Russian Revolution twenty years before. Included among them were Lenin's personal assistant, Gregory Zinoviev; Leo Kamenev, the president of the Moscow Soviet and, like Zinoviev, one of the original members of the Politbureau; Ivan Smirnov, once acclaimed "the Lenin of Siberia"; Nikolai Bukharin, the editor of *Izvestia*; the once powerful journalist, Alexei Rikov; Marshal Mikhail Tukhachevsky, the most successful leader of the Red Army during the Civil War; Karl Radek, once head of Bolshevik foreign propaganda; and even the dreaded chief of the G.P.U., Henry Yagoda. The trial and execution of these men duly followed. There is no reason to think that the judges who condemned them were not able and fair-minded: in accordance with their legal training they accepted the guidance of the Marxian legal maxim quoted above.⁹

Similarly, at Teheran, in 1943, Joseph Stalin, in the name of the executive government of the Soviet Union, expressed the opinion that certain German opponents of Communism,

⁹ Even the great Lord Mansfield spoke with approval of "the trite maxim of the constitutional law of England that private mischief had better be submitted to than that public detriment should ensue."

to the number of 50,000, should be liquidated "as fast as we capture them before a firing squad." As a concession to the bourgeois scruples of his allies, Stalin, indeed, agreed that a trial should, in each case, precede execution, but his decision that these men must die remained unaltered. Did Lord Justice Lawrence imagine that the Soviet Judges who tried any of these cases in Moscow or in Nürnberg were at liberty to reverse Joseph Stalin's decisions on this subject or on any other? His speech in the House of Lords, quoted above, clearly indicates that this was his belief, since otherwise the importance which he attached to the fairness of his Soviet colleagues is quite incomprehensible.

In one sense, of course, the learned English judge may have been right in his belief. In the same sense, no doubt, Henry VIII's judges can be said to have been at liberty to reverse the decision of their royal master that "the Abbot of Glaston should be tried at Glaston and also executed there with his complices." There is no reason to think that the judges who condemned Abbot Whiting to the lingering horrors of an English execution for high treason were not able and fair-minded men. But, as loyal and obedient subjects of His Majesty, they would have had little difficulty in convincing themselves that the opinion of their sovereign lord, the king, was well founded. Similarly, a Soviet judge would, naturally, feel it presumption on his part to investigate too deeply the grounds upon which "our great wise Leader, Lenin's true pupil and successor," had formed an opinion. Soviet law gives the widest judicial powers to the executive government, and the duty of a Soviet judge is to administer, not to reform, Soviet law. Joseph Stalin, like Bluff King Hal, was notoriously impatient with subordinates who failed on any pretext to carry out his instructions, and was very likely to regard anyone who disagreed with him as a self-confessed counter-revolutionary. In Tudor times, those who had the honor to serve Bluff King Hal lived under the shadow of the Tower, just as those who, four hundred years later, served Joseph Stalin lived beneath the shadow of the Lubianka Prison.

"Stuff and nonsense," exclaimed Alice when the Queen demanded, "Sentence first—verdict afterwards." The members of the International Military Tribunal at Nürnberg can be divided into two distinct groups, according to their attitude to this celebrated passage in Lewis Carroll's classic story. To the So-

viet judges, the Queen's demand for "Sentence first—verdict afterwards" was a perfectly rational requirement supported by numerous weighty precedents. To Lord Justice Lawrence and his non-Marxian colleagues, as to Lewis Carroll's contemporaries, it was nothing but brilliant nonsense, a whimsical extravagance so wildly fantastic as to be humorous. Neither group had the slightest comprehension of the legal concepts of the other. Lord Justice Lawrence's tribute to the fairness of his Soviet colleagues proves, for example, that no less than three years after the Nürnberg trials the leading British representative on the Tribunal had still not grasped the Marxian significance of the word "fairness." In Marxian legal ideology, the word "fairness" means fairness to the proletarian state: fairness to an unrepentant opponent of Communism is simply a contradiction in terms. All the occupants of the dock were undeniably guilty of being anti-Communists and, as such, required elimination. Whether they deserved execution for certain specific acts was a question of no practical importance. When a majority of the Tribunal decided to acquit von Papen, the Soviet Government lodged a strong protest. His acquittal might have been "fair" in a non-Marxian sense, meaning that he was not guilty of the acts of which he was accused, but it was obviously "unfair" to Communism that an outspoken opponent of Communism should be allowed to survive.

Some may think that the above protest of Lord Justice Lawrence showed undue touchiness to reasoned and moderately expressed criticism. Full credit should, however, be given him for the loyalty displayed by him to his foreign colleagues who, no longer seated on the Bench at Nürnberg secure from challenge or objection, were, like himself, standing before the bar of history awaiting judgment. But what is really significant in the episode is that the English judge should assume that Soviet judges should need or desire any defense from charges of having outraged established principles of justice which he himself, of course, accepted without question but had long come to be regarded as obsolete bourgeois prejudices in the Soviet Union.

The publication of the London Agreement, followed soon after by the establishment at Nürnberg of the body describing itself as the International Military Tribunal, was received on the whole by the British public with satisfaction, mixed however with a certain bewilderment. Naturally, the objection which

troubled lawyers most of all, namely, the objection that the tribunal had no legal jurisdiction, was comprehensible only to those who had had a legal training. The most generally accepted view was that it would be time enough after the prisoners had been hanged for the experts to decide the precise grounds (if any) upon which their death could be justified. The man in the street was not troubled by technical considerations of justice and legality. Nevertheless, from the first, various misgivings were expressed. How completely the essential novelty of the suggested trials at Nürnberg was misunderstood can be gathered from a perusal of the correspondence columns of *The Times*. Therein will be found four distinct schools of thought.

First, there were the apologists who argued that everyone knew that the prisoners were guilty or at any rate thoroughly deserved to be hanged: therefore, *a priori*, no injustice could be done if they were hanged. Anyone who did not know that the prisoners ought to be hanged, stood forth as a self-confessed Nazi sympathizer and as such had, of course, no right to express an opinion.

This school of thought comprised the vast majority of the British public. Strictly, of course, it was not a school of thought at all but a school of emotion. Its members were not concerned with the facts, still less with principles: like St. John the Solicitor-General, in 1641, they were satisfied with "feeling in their hearts" that the accused were guilty.

Secondly, there was the viewpoint of those who pointed out that the proposed trials of the vanquished by the victors, whether well founded or not, would create a precedent which, in the no longer inconceivable event of Great Britain being overthrown in a future war, would justify a general massacre of all her political, military and industrial leaders. Through the conquest of the air, Great Britain had ceased to be a sixth continent secured by an invincible navy from attack and subjugation: she had become merely one of the states into which Europe was divided and, as such, could be no more indifferent to the fate of a subjugated people than any other European state. Was this an opportune moment, they asked, to create such a precedent?

Thirdly, there were those who insisted on inquiring what would be the ultimate effects of the proposed trials. Was there any justification for the hope, so confidently expressed, that a

massacre of the German leaders would act as a deterrent to politicians who, in the future, might be tempted to embark on wars of aggression and to generals who might feel inclined to adopt inhumane measures against the enemy civilian population in order to assist their military operations? Following the acceptance of Mr. Morgenthau's proposals that a defeated nation should not only be plundered but deprived of the means of subsistence so that its population, and consequently its strength, might be reduced by starvation, was it not more probable that a massacre on this scale would have exactly the opposite result? Once it had become established that the penalty of defeat for a nation would be some variation of the Morgenthau Plan, how could the most peace-loving statesman hesitate to strike the first blow if it appeared to him that by so doing his country's chances of avoiding so appalling a calamity might be improved? Similarly, what general would permit his operations to be hampered in the least degree by scruples, once it had become established that the fate of all defeated generals was an ignominious death? As he submitted to the hangman, a general on the losing side who had strictly observed all the rules of civilized warfare would enjoy no advantage over his less scrupulous colleagues—except, of course, the consciousness of having acted rightly. Surely the moral which would logically be drawn from the Nürnberg Trials was to win at any cost by any means.

In passing, it may be noted that no one seems to have drawn the attention of the Archbishop of York, Dr. Garbett, to the fact that the London Agreement made no attempt "to vindicate the underlying sense of the difference between right and wrong" in accordance with his pious hope. Judging by his silence, His Grace was content to accept as a substitute its emphatic vindication of the underlying difference between being on the winning and being on the losing side. Article 6 of the Charter expressly limited the jurisdiction of the Tribunal to crimes committed "in the interests of the European Axis Countries."

Fourthly, and finally, there were those who adversely criticized certain aspects of the proceedings, regarded not as "a prolonged and solemn form of execution," but as a normal judicial trial.

The arguments of the latter group, although put forward with much eloquence and legal learning, were mostly quite

beside the point. They were applicable to a judicial trial and not to something so essentially different in origin, procedure and purpose as a mock-trial, even to a mock-trial which departed in certain essential respects from normal mock-trial practice. A profound knowledge of jurisprudence is a distinct handicap to the understanding of a type of mock-trial which demands some knowledge of anthropology, modern Russian history, and Marxian ideology. No wonder that the proceedings puzzled European jurists, although, perhaps, not more than they puzzled Marxian political biologists. To take but one example, the protests raised when the Bar Council decided that it was "undesirable" that a member of the English Bar should appear for the defense before the Nürnberg Tribunal: "If indeed the Tribunal and its task," wrote Serjeant Sullivan, K.C., indignantly, "are such that self-respecting counsel should not lend himself to the proceedings, it is undesirable that an English judge should sit and an English law officer as such should prosecute!"¹⁰

But this, of course, was not the point at all. In a normal mock-trial, the victims are provided with counsel to defend them as part of the stock paraphernalia of the proceedings: the refutation of the feeble arguments of the defending lawyers by the prosecution are as much an essential part of the show as the overthrow of the worn-out old horses ridden by the picadores at a bull fight. Normally, at a mock-trial, counsel can be trusted not to display inconvenient zeal since the penalty for this is arrest, another mock-trial, and execution as a confederate. But, at Nürnberg, had English counsel been allowed to defend the prisoners, their professional zeal might with impunity have embarrassed the Court. Their attendance was clearly "undesirable" and the prisoners were left to be defended by their own countrymen. The Court was protected against embarrassment from the latter, first, by the fact that, since only anti-Nazi barristers were then permitted to practice in Germany, the prisoners could choose counsel only from among their political enemies to defend them, and, second, by the fact that, if any of the defending counsel had allowed themselves to be carried away by patriotic sentiments, they could, as German citizens, instantly be sent to join the unhappy multitude of persons then being detained in concentration camps

¹⁰ See letter to the *Times*, November 2, 1945.

without any legal process but merely on the suspicion that they might have pro-Nazi leanings.¹¹

The attitude of Mr. Winston Churchill to "the Nazi war-criminals" (by which he meant the political members of the German Government and their military, naval, financial and industrial advisers) was unclouded by legal doubts or political theories. On this subject, he set forth the strongest opinions in public statements. Throughout the ages, politicians have always taken a harsh view of their opponents' acts and motives: even King Sapor no doubt sincerely believed that the Emperor Valerian deserved to be used as a footstool. Of the Nazi guilt, Mr. Churchill seemed to have no doubts whatever, at least after 1939. He appears to have been convinced that any fair-minded man who investigated the facts would come to share his conviction.¹²

To this it may be objected that, if this had been the case, Mr. Churchill would have insisted that investigation should be carried out by a tribunal composed of neutral jurists. Such a tribunal could have been readily formed: there were available eminent Swiss, Swedish, Portuguese, Spanish, and Argentine jurists of repute and standing who would have been willing to serve on such a tribunal had they been invited. If the "Nazi guilt" was really so plain, the result would be the same and the findings would carry the maximum weight as coming from a tribunal composed of neutrals.

This contention is clearly put in the following letter which appeared in the issue for June, 1946, of *The Solicitor*, a monthly periodical written by lawyers for lawyers:

From your article "The Nürnberg Trials" in your issue of May, it would seem that there is some genuine evidence of atrocities and excesses on the part of the accused.

If this be true, can you or any of your readers suggest any reason why such evidence should not have been investigated by an im-

¹¹ According to the statement of Lord Pakenham in the House of Lords in November, 1947, in the British Zone alone 25,000 Germans had been released after being kept in concentration camps for over a year without being charged with anything, and 16,000 were still waiting to be charged or released. A similar situation prevailed in the American and French Zones: the situation in the Russian Zone must be left to the imagination.

¹² In his book, *Great Contemporaries*, and other writings and speeches, Mr. Churchill had expressed much admiration for Hitler—all after Hitler had imprisoned liberals, thoroughly established his anti-Semitic program, and violated the Treaty of Versailles. Even as late as November 11, 1938, Churchill said of Hitler: "If our country were defeated I hope we should find a champion as admirable to restore our courage and lead us back to our place among the nations." See Emrys Hughes *Winston Churchill in War and Peace*, Glasgow: Unity Pub. Co., 1950 Chap. XVIII.

partial tribunal of eminent neutral jurists such as could have been readily formed if desired.

Assuming that the object of these "trials" is not merely to inflict vengeance on the losing side, but to record a solemn condemnation of duly proved atrocities and excesses for the benefit of posterity, surely such a condemnation would bear more weight if it were delivered by a neutral tribunal which had examined the facts in a judicial manner.

When a man insists on being the judge of his own case, the inevitable assumption is that he knows his case will not bear investigation. Will not posterity draw this conclusion with regard to the Nürnberg trials? And yet there would appear to be evidence upon which a neutral tribunal could have found verdicts of guilty in regard to some of the accused.

No reply was received to this challenge, but the letter was dealt with in a cautiously worded editorial, in which the question above asked was simply ignored. Natural justice, it was asserted, was a flexible term meaning different things to different victors: theories of legal and political responsibility were undergoing revolution. "If the Nürnberg trials lead to an international code, so much has been gained: if not, a procedure has been set which will produce fresh difficulties in the future."

To this day, this question has never been answered. But with regard to Mr. Churchill's attitude in the matter, it is suggested that, if Mr. Elliott Roosevelt's account of what took place at Teheran in November, 1943, is substantially accurate, it is not unlikely that it will, in due course, be disclosed that Mr. Churchill strove with might and main at Potsdam to arrange that alleged war crimes should be investigated by a neutral tribunal. With our subsequent knowledge of Mr. Molotov's capacity to say "No," it is not difficult to understand why Mr. Churchill's efforts, if indeed ever made, should have been fruitless.

All that can be said with certainty is that, in place of the summary execution of the German leaders, as and when captured, proposed by Stalin at Teheran, it was agreed that specific charges should be formulated and then investigated and adjudicated upon by a court composed of selected officials of the victorious Powers.

So much at least had been gained. It may be questioned, however, whether the prisoners thereby derived much cause for thankfulness. On the one hand, they did not find themselves at Nürnberg before judges who attended, as in a normal

mock-trial, with their verdicts already drafted for them. To the non-Marxian members of the tribunal such a procedure would have been unthinkable. But, on the other hand, the prisoners found themselves subjected to a protracted ordeal leading to a result which everyone assumed from the start was, in the circumstances, inevitable and which may well have come to many of the accused as a welcome release.

It is no reflection on the members of the Nürnberg Tribunal to say that they were faced by a task fundamentally impossible. As the late Lord Hewart once said, "It is equally important that justice should be done and that justice should appear to be done." Whether justice was, in fact, done at Nürnberg will be a question for future historians to decide, but no efforts, however sincere, could give the impression that justice was being done. In a modern war, the serene detachment of the eighteenth century is impossible. Every citizen of a belligerent state, from the highest to the lowest, is personally involved. Two hundred years ago, warfare was regarded as the sole concern of rulers; private individuals had no occasion to feel strong emotions; for the majority, victory only meant flag-waving, and defeat, slightly heavier taxation. Those days have gone, probably forever. In the next war, after London has received a salvo of jet-propelled rockets charged with atom bombs, few Londoners will be found to subscribe to the dictum of that eminent Londoner, Dr. Samuel Johnson, that public misfortunes never put a man off his breakfast. In the same way, a citizen of any of the belligerent states in the war of 1939-1945 who could emerge without having formed any views as to the rights and wrongs of the struggle or as to the character of the opposing leaders would either have had a superhuman mind or no mind at all.

Perhaps the full force of this objection will be more easily grasped if a hypothetical example be taken. Let us suppose that it was desired to bring to light the truth concerning the bombing of Dresden on the night of February 13, 1945. To fulfil this perhaps morbid desire, let us suppose that it was decided that the facts should be investigated by a tribunal consisting of eight eminent Saxon jurists, men of reputation and integrity, each specially selected as possessing a logical, dispassionate, impartial and balanced legal mind. Could a verdict of any weight or value be expected from such a body on such a subject? Would they not inevitably come to the conclusion that

this mass attack by two thousand planes on the Saxon capital when crowded with refugees, long after the issue of the war had been decided, was a wanton act of savagery? However sincerely they strove to banish the memory of that *Schreckensnacht*, they would reach the same verdict.

Would it be fair to say that, because this verdict was inevitable from a court so composed, it was a sham? Clearly not. It would be a sincere and honest verdict but, because inevitable, worthless. Rightly or wrongly, the man in the street would dismiss their opinion with the remark, "Of course they would say that!" Therefore, it would fail to comply with Lord Hewart's dictum that justice must seem to be done. Possibly, future historians might endorse such a verdict on this bombing; it is equally possible that future historians may endorse the findings of the Nürnberg Tribunal with regard to the acts of the surviving members of Adolf Hitler's government and their professional advisers. No value can be attached to a judgment which can be forecast in advance with practical certainty. However sincere and painstaking the above suggested investigation by the Saxon jurists might be, it would ultimately be dismissed as a mock-investigation. In the same sense and for the same reason, the proceedings at Nürnberg may be dismissed as a mock-trial.

In a speech on January 23, 1952, Fuad Serag el-Din Pasha, Egyptian Minister of the Interior, was reported in the press to have declared that the British troops in the Suez Canal Zone had committed "barbarous acts and atrocities beyond human imagination." A British reader will of course dismiss this charge as nonsense, but he should at the same time ask himself what chance General Erskine, the British G.O.C. in Egypt, would have of obtaining justice, if he ever had to answer for the doings of his troops before an Egyptian court. Would he, for example, have a better chance than Field Marshal Kesselring had at his trial at Venice, in 1947, for what some of his troops were said to have done when combatting the Italian "resistance movement." It may be said that the Egyptian Minister of the Interior must have formed his opinion merely on what he had been told concerning the methods adopted by General Erskine's men to combat the Egyptian "resistance movement." No doubt this is true; Fuad Pasha did not claim to have witnessed any of these "atrocities beyond human imagination." He formed his opinion on hearsay; at Nürnberg it was solemnly

laid down that hearsay evidence is sufficient to sustain not merely an opinion but a conviction in a court of law.

Within nine months of the close of the Nürnberg proceedings, another political trial took place to which the same adverse criticism may be applied. On September 23, 1947, Nikola Petrov, the Bulgarian Peasant Party leader, was convicted and executed on charges of conspiracy. Immediately, the British and American Governments lodged strong notes of protest, stigmatizing the proceedings as "a travesty of justice." No reflection was cast on the judges personally who convicted: their jurisdiction to try a Bulgarian subject could not be challenged; Petrov may have been guilty according to Bulgarian law; the verdict may have been just according to the evidence. The only relevant complaint contained in the British and American notes was that "the three judges of the Court and the two State prosecutors were members of the Communist Party." Petrov was admittedly anti-Communist. For this reason, the proceedings were not necessarily "a travesty of justice" but clearly they failed to comply with Lord Hewart's dictum that not only must justice be done but justice must appear to be done. In this sense, the proceedings against Nikola Petrov in September, 1947, must also be classified as a mock-trial.

Another objection can be raised to the Nürnberg proceedings which is, if possible, even more fundamental. In normal criminal proceedings, the accused is charged with an act in breach of a specific law. The law being clear, the sole points to be decided by the court are whether the act alleged was committed, and if so, did it break this specific law. But, at Nürnberg, no code of law could be referred to: the charges were for failure to comply with recognized practice. But recognized practice varies from age to age. What was recognized practice in 1645 during the Thirty Years War would have been regarded as inconceivably outrageous in 1745 and in 1845, but had become more or less recognized practice again in 1945. Before the charges at Nürnberg could be established, it was essential first to establish what was the recognized practice from which the accused were alleged to have erred and strayed. But, to achieve this, required an investigation of the conduct of both sides. Although, in ethics, two blacks do not make a white, yet it is hardly possible for the parties on one side in a war to complain of acts of the other side when they themselves have committed the acts in question. But the Court

at Nürnberg was specifically precluded from investigating allegations made against subjects of the victorious Powers. In other words, being on the losing side was an essential ingredient of every charge. It was, consequently, utterly impossible for the Court to decide what was the recognized practice at the time of the alleged offenses.

While stoutly maintaining the principle that, under the circumstances, could crimes not committed "in the interests of the Axis countries" be mentioned, the Tribunal felt itself compelled in one case to admit grudgingly that evidence as to what had become the recognized practice could not be excluded. In this one instance, Admiral Dönitz had been charged with waging unrestricted submarine warfare. The Tribunal reluctantly admitted that, in assessing this crime, an order by the British Admiralty, dated May 8, 1940, directing that all vessels in the Skagerrak should in future be sunk without warning, combined with the admitted fact that the United States had waged unrestricted submarine warfare from the first day that the United States entered the war, could not be left out of account.

This ruling seemed to establish the novel principle that whether a particular act was a crime or not, depended on whether the victors could be shown to have committed it. If the victors had committed it, it could not be a crime.

The Tribunal was, however, fully alive to the danger which a general application of this principle would entail and, consequently, insisted that it must be limited, for reasons unexplained, to the case of Admiral Dönitz. To this arbitrary decision must be attributed the commission of the most monstrous of all the miscarriages of justice committed at Nürnberg, the sentencing of Admiral Raeder to imprisonment for life for having planned and directed an aggressive war against Norway.

Since the publication of the facts by Mr. Winston Churchill in his book, *The Gathering Storm*, it has become impossible for anyone to justify or excuse this conviction. In his book, Mr. Churchill admits that from September, 1939, onward, the British naval authorities were making precisely the same plans for an attack on Norway as those being made at the same time by Admiral Raeder. In fact, the British Admiralty put the plans into operation 24 hours before Admiral Raeder received orders to put into operation the plans which he had prepared.

plans which were nothing more than the German counter-part of the British Admiralty's "Operation Stratford."¹³

The facts, as now disclosed, are admirably summarized by Lord Hankey in his book, *Politics: Trials and Errors*, as follows:

From the start of planning to the German invasion of Norway, both Great Britain and Germany were keeping more or less level in their plans and preparations. Britain actually started planning a little earlier, partly owing to Mr. Churchill's prescience, and partly perhaps because she had a better and more experienced system of Higher Control of the War than Germany. Throughout the period of preparations the planning continued normally. Both plans could be classed as major offensive operations of war. Neither plan could be initiated without either an invitation from Norway, who naturally preferred to preserve her neutrality as in the First World War, or alternatively incurring the odium of perpetrating an aggression. This bore heavily on the British because they had stood by smaller nations against aggression; the essence of their plan was to stop the German supplies of Gallivare ore during the winter before the Baltic unfroze. . . . Both plans were executed almost simultaneously, Britain being twenty-four hours ahead in this so-called act of aggression, if the term is really applicable to either side.

The actual landing in Norway, that is to say the German major offensive operation, did not take place until April 9, and twenty-four hours before that, namely between 4:30 and 5:00 a.m. on April 8, the British minefields had been laid in the West Fjord near Narvik.¹⁴

In extenuation of this grave miscarriage of justice, Lord Justice Lawrence has since pleaded that the Tribunal had no official knowledge of the doings of the British Admiralty during the winter of 1939-1940, and could not be expected to undertake so gigantic a task as an investigation of all the acts and plans of all the combatants during the hostilities. The only question before the Court, he declared, was whether Admiral Raeder had planned an aggressive war. In spite of the ruling above mentioned relating to the case of Admiral Dönitz, evidence could not be entertained in defense of Admiral Raeder that, when he was planning an aggressive war against Norway, the British Admiralty was making similar plans.

On this matter, the Tribunal is certainly entitled to all the sympathy which it is likely to receive from posterity. Created by a charter framed by cynical politicians and dominated through-

¹³ Winston Churchill, *The Gathering Storm*, Boston: Houghton Mifflin, 1948, p. 421, and pp. 474-5. See, also, the British *Official History of the Second World War*, Vol. I, which sets out in detail the plan approved by the British War Council, February 6, 1940. It involved the seizure of Narvik and the occupation by force of Northern Norway and Sweden, including the seizure of the Swedish port of Lulea on the Baltic. The plan is summarized in the *London Times*, December 10, 1952.

¹⁴ Lord Hankey, *Politics: Trials and Errors*, Chicago: Regnery, 1950, pp. 78-79.

out by a righteous indignation complex, only by a special divine intervention could it have avoided contradictions, inconsistencies, and absurdities. But it was pure malice on the part of fortune that the victim of its least excusable blunder should have been the most distinguished of the surviving heroes of the battle of Jutland, one of the last major actions in history fought in strict accordance with the highest traditions of European civil warfare. In that memorable battle, Erich Raeder served as chief of staff on Admiral Hipper's flagship the *Lutz*, the battle cruiser which sustained the most terrific battering of any capital ship in the High Seas Fleet. Having been hit no less than twenty shells of the largest calibre, a desperate attempt was made to bring the slowly sinking ship back to port amid ceaseless night attacks by the British light cruisers until, when safety had almost been reached, she had to be abandoned and sunk to prevent capture. The whole spirit of civilized warfare, as it had evolved in Europe at the time, expressed in the tribute, classical in its brevity and dignity which, in his report, Admiral Jellicoe paid to his opponent and indirectly to himself and his own men: "To many men with the gallantry that was expected of him." Both sides indeed fought with unshakable courage, self-sacrifice, and chivalry. Either regrettable incidents were lacking or the emotional engineers on this occasion refrained from using them for propaganda purposes. Thirty years were to pass before the memory of this epic struggle was to be sullied by becoming linked through the name of Raeder with so crude and barbarous a business as a war-trial.¹⁵

The lack of any clearly defined standard by which the conduct of the accused could be assessed was felt throughout the proceedings at Nürnberg. No reference was possible to any system of law. It has long been established that a citizen can only be convicted for infringing a law in force at the time of the alleged infringement. *Nulla poena sine lege*. A man can only be subject to the laws of his own country and of the laws of the country in which he may happen to reside. Thus, an Englishman living in England is subject to English law; if he visits France, while in France he is subject to French law. If it

¹⁵ It is indeed puzzling to contrast the stoical fortitude with which the upholders of the traditions of the British Navy endured the condemnation of Admiral Raeder to life imprisonment as a convict with their vociferous protests when it was announced in March, 1951, that a squadron of British ships was being placed under the command of an American admiral.

district in which he lives in England is occupied by a French army, he becomes subject to French martial law and can be punished for offenses against that law committed by him *after* he has become subject to it. If, later, the part of England in which he resides is annexed to France, he becomes subject to French law. In no circumstances can he be punished for breaches of French law committed while he was subject to English law.

This difficulty, which will be obvious to any law student of six months standing, can only be circumvented by compelling the government of a vanquished state to punish its own erring citizens. This procedure was adopted in 1900 after the Boxer Rebellion. In effect, the victorious European Powers said to the Imperial Chinese Government: "We can prove that your subject X has committed murder; we are entitled to assume that murder is contrary to Chinese law; we insist, therefore, as one of the conditions of peace, that you place X on trial, when if we produce proof of his guilt, you must undertake to punish him."

All the men accused at Nürnberg were accused of offenses alleged to have been committed before the occupation of Germany by foreign armies and while they were still subject to German law. Only under German law by a properly constituted German court, therefore, could they be legally tried for such offenses. The same reasoning, of course, invalidates the jurisdiction of the various courts-martial which tried and condemned numerous persons for acts which were committed before the conquest of their country had made them subject to foreign martial law. Of these trials, the most famous is that of Field Marshal Kesselring by an English military court sitting at Venice for acts committed by him when commander of the German forces defending Italy from invasion. No doubt, it was recognition of this principle which saved Marshal Davout, in 1814, from a trial by a German military court for his excesses in Hamburg and Marshal Suchet from a trial by a Spanish military court for his excesses in Aragon. In both cases, in spite of what must have been well nigh overwhelming temptation, it was felt that a mock-trial of this kind, that is to say, a trial leading to a result which, while it might be just, would certainly be a foregone conclusion, was too dangerous a precedent to create.

In passing, it may be noted that since the term "mock-trial" has become, for over a quarter of a century, firmly at-

tached to a characteristic feature of political life in the Soviet Union, a distinct term is needed to describe the novel series of prosecutions which began after the termination of hostilities in May, 1945. It is suggested the term "war-trial" should be adopted to describe generally what takes place when the victors in a war appoint themselves to sit in judgment on the vanquished. So defined, the term "war-trial" can be used to embrace, on the one hand, the crudest reproduction of a Soviet mock-trial and, on the other hand, a strictly judicial trial, defective only from the court's lack of jurisdiction.

The prototype of the war-trial, as distinct from the mock-trial, is the previously mentioned prosecution and conviction of Bessos, the Persian satrap, by Alexander the Great at Zariaspa, in Bactria, in B.C. 329. Most historians seem to take the view that this was only an elaborate mock-trial, Bessos suffering his horrible fate as a symbol of that Persian menace which had overshadowed Greek civilization for over two centuries and had culminated in the famous invasion of Greece by Xerxes one hundred and fifty years before. But there are no grounds for thinking that Alexander did not genuinely believe that Bessos was a villain deserving punishment: his belief that Bessos was guilty of the offenses for which he condemned him to be tortured to death was probably as wholeheartedly sincere as that of any of the victors in any of the war-trials which have taken place since, including those which followed the overthrow of the Third Reich in 1945. For all we know to the contrary, the prosecution of Bessos may have been strictly fair and his condemnation justified. The fact that Alexander's vanity caused him to insist on playing both the roles of prosecutor and judge is a detail without significance which in no way influenced the outcome of the proceedings. With equal sincerity and naïveté, Alexander was convinced that no one could plead for a conviction more forcibly than himself and no one could better discharge the duties of judge or find a penalty more neatly fitting the crime. After all that he had endured and achieved, it is hard to grudge Alexander an experience which he evidently enjoyed enormously: concerning the barbarous "pre-conviction punishment" inflicted by him on Bessos, it can at least be said that this has never been an uncommon feature of war-trials. The only objection which can be taken to the actual proceedings against Bessos is that Alexander, as the leader of a victorious army of invaders, was not, as such, a suitable

person to adjudicate on charges concerning the conduct of a Persian patriot who had distinguished himself in resisting the invasion.

It is submitted that proceedings of the Bessos type, for which the term "war-trial" is suggested, are easily distinguishable, on the one hand, from the ancient mock-trial in which the victim suffers as a symbol for the shortcomings of his race or party and, on the other hand, from the mock-trial of the type which has evolved since the Bolshevik Revolution in Russia and which, as explained above, is in essence a political manifesto expressed for convenience or effect in the form of a trial at law.

Either owing to the difficulties of the subject or to the existing restrictions designed to prevent wastage of paper, the principles upon which war-trials are based have not even now been fully worked out. Seemingly, however, they will be found to rest upon the ancient doctrine of "double guilt." It is not open to dispute that, in a great war in which millions of men are engaged, atrocities and excesses are bound to be committed by individuals on both sides. Being on the winning side is deemed to operate as complete absolution for wartime offenses; being on the losing side is deemed so to aggravate such offenses as to create a liability to exemplary punishment. The victors feel that they can trust only themselves to mete out the inflexible justice demanded by this twofold guilt. In carrying out this self-imposed duty or labor of love, a convenient outlet is found for the burning righteous indignation which victors always feel for the shortcomings of the vanquished, and, at the same time, atonement is made by them vicariously for their own shortcomings for which, thanks to their victory, they are not liable otherwise to account.

Whether this reasoning be found satisfying or not, it certainly lacks the simplicity and clarity of the Marxian justification for the liquidation of defeated opponents—the mere fact that a combatant is at an enemy's mercy proves his defeat, and defeat itself demonstrates failure in the struggle for survival for which in human affairs, as in nature, the penalty is extinction.

Equally lucid and logical was the justification of the Assyrian kings for their method of dealing with captured enemies. God, they argued, is both omnipotent and just: therefore, no one could fall into Assyrian hands contrary to the will of God, and anyone who suffered the dreadful fate which was the in-



—Wide World Photos
Chief Allied Prosecutor at Nuremberg Trials, Justice Robert H. Jackson
of the United States Supreme Court.



—Wide World Photos.

Hermann Göring ends his testimony on March 15, 1946, after 15 hours in the witness-box. Impartial observers contended that he held his own with his prosecutors, notably Mr. Justice Jackson.

evitable consequence of falling into Assyrian hands must have committed a sin sufficiently appalling in God's sight to merit such a fate. In short, the penalty itself proved the guilt.

War-trials, whether of a Persian satrap, in B.C. 329, or of a German general, in A.D. 1948, have the same essential characteristics. In principle no less than in procedure, a war-trial is sharply distinguished, on the one hand, from the practice of the ancient Assyrians which was based on theocratic ideas totally foreign to modern thought and, on the other hand, from the modern Marxian mock-trial which is best regarded as an application of the principles of eugenics to politics.

Once the essential characteristics of a war-trial have been distinguished, it becomes easy to proceed to define a war-crime as simply any act which is made the subject of a war-trial. If this be considered too nebulous a definition, a war-crime may be defined tersely as any act committed by a subject of a vanquished state which is so regarded by the conquerors of that state.

This popular definition is defective in two respects. The mere fact that the culprit is a subject of a vanquished state does not, in itself, necessarily create a liability to be tried for a war-crime. Thus, for example, Italian subjects admittedly committed acts in the late war which have been labelled war-crimes and for which Germans and Japanese have been done to death. Since no Italian has been subjected to a war-trial for these acts, presumably these acts are not war-crimes if committed by Italians. Secondly, indiscriminate bombing, resulting in the wanton slaughter of civilians, is, and always has been, regarded as a war-crime, and is, in fact, the war-crime which, in popular opinion, the Germans most frequently and flagrantly committed. Yet, no charge of indiscriminate, wanton or "terror" bombing was preferred at Nürnberg or at any subsequent war-trial. This omission, which aroused great astonishment at the time, has only recently been explained by the chief American prosecutor Justice Robert H. Jackson. The decision not to prefer any such charges, he tells us, was reached after long and anxious deliberation because of the difficulty of distinguishing between "the military necessity," which was accepted as justification for the destruction by British and American airmen of the cities and towns of Germany, and "the military necessity" for similar destruction by German airmen. Raising this

subject, he tells us naively, would have been "to invite recriminations which would not have been *useful* at the trial."

In order, therefore, to cover the above mentioned exclusion of Italian subjects from prosecution as war-criminals and the omission to include the indiscriminate bombing of civilians as a war-crime, even when committed by Germans, it is suggested that the commonly accepted definition of a war-crime should be amended as follows:

A war-crime is an act committed by a member of a vanquished state but not a vanquished state wholly or partially absolved from war guilt for political expediency, which in the opinion of the conquerors of that state is a war-crime, but which act is not an offense which has been so flagrantly and openly committed by the conquerors themselves that mention of it would cause them embarrassment.

A further amendment may be considered necessary, if a recent *obiter dictum* be accepted. In the war-trials at Tokyo, in 1947-1948, the Indian representative, Mr. Justice Rahabinode Pal, delivered a brilliant dissenting judgment in which he laid down that "the farce of a trial of vanquished leaders by the victors was itself an offense against humanity," and was, therefore, in itself a war-crime.

With due respect to that profound student of international law, Mr. Justice Rahabinode Pal, it is submitted that this contention would only become true if, later, the members of the tribunal found themselves on the losing side. All the authorities are agreed that being on the losing side is an essential element in a war-crime. The trial of prisoners of war by their captors may be, and generally is, a crime against humanity, but, according to the definition laid down in the London Agreement and accepted at Nürnberg, a crime against humanity is only a war-crime if it be committed "in the interests of the vanquished side."

No passage in the Nürnberg Judgment had been more frequently quoted than the passage describing the initiation of a war of aggression as "the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole." Standing by itself with the words "a war of aggression" undefined, this description means nothing whatever, and it is hard to explain how it came about that two experienced and learned English High Court judges were brought to endorse such pompous and meaningless verbiage. Can it, however, be a coincidence that the

fundamental principle upon which the Nürnberg war-trials were based and by which the International Military Tribunal was guided, is exactly defined by the description, "*Being on the losing side* is the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole"?

It would be consistent with the terms of the Charter, the rulings of the Tribunal, and all the surrounding circumstances, if, as originally drafted, the judgment had in fact contained this illuminating definition. It is, however, easy to understand why, to the majority of the members of the Tribunal, it appeared on consideration much too illuminating. No doubt, proud of his own eloquent phraseology, the author of this particular passage, whichever member of the Tribunal it may have been, strongly objected to its elimination, and his colleagues at last came to accept the view that the passage could do no harm, providing that it was deprived of all meaning.

This celebrated passage, in fact, reads equally well if the words "To initiate a war of aggression" be substituted for "Being on the losing side." So amended, the passage was included in the judgment of the Tribunal which was delivered in due course at the end of the trial. In the circumstances, it is hardly a tenable explanation that it was mis-reported or rendered meaningless in so important a passage by a slip of the tongue.

It might be noted, in passing, that the much touted distinction between an aggressive and a defensive war, with the former an international crime and the latter a public virtue, is one of the greatest frauds and hoaxes with which recent international semantics has cursed us. This was pointed out by an American professor, H. W. Lawrence, in the *Christian Century* about 20 years ago (October 10, 1934). He showed that it is no more than a fictitious moral alibi used to defend nations which have gobbled up the choice portions of the planet and wish to hold them against the "aggressions" of the "have-not" nations. No less eminent an authority than Harold Nicolson once admitted this to be the case. A thief who has become rich from pilfering may suddenly take on an exaggerated respect for the sanctity of the property he has thus illegally accumulated. Apologists for the League of Nations pressed this myth of the unique evil of an "aggressive war"

during the 1920's to discourage any disturbance of the *status quo* by nations which had suffered from the post-war treaties.

An American historian and international publicist, James Thomson Shotwell, who had much influence in League circles, was probably the most ardent proponent of the myth. He was a passionate defender of both the British Empire and the League of Nations which sought to maintain things as they had been arranged in 1919. Even that stalwart exponent of the outlawry of war, the distinguished American lawyer, Salmon O. Levinson, ridiculed the idea of outlawing only aggressive war, comparing it to the silly notion of outlawing "aggressive duelling" and permitting "defensive duelling." All sense and logic was finally and completely eliminated from the idea of aggressive warfare when the Nürnberg Tribunal defined it by implication as being on the losing side. From now onward, waging an aggressive war can mean no more than losing the war, no matter what the facts and merits concerning the launching of the war.

The Russian conception of a trial leading to a previously agreed upon result was not an entire novelty to the American public. In the pioneer days of American history, in outlying territories where the forces of law and order were weak and ill-organized, it was the practice for so called Vigilantes to round up periodically notorious lawbreakers and to hang them without spending much time in deciding for what particular offense they should be hanged. The guilt of the accused being public knowledge, the actual trial was often a mere formality only distinguishable from a lynching by the fact that the sentence of death was usually imposed by a duly constituted court of law.

Very similar in essentials were the trials of various notorious organizers of crime which followed the introduction of Prohibition in 1919. Thereafter, the production and sale of alcoholic drink involved the wholesale corruption of the forces of law and order, but the enormous profits obtainable from bootlegging rendered this possible on a scale hitherto unimaginable. For the first time, crime became highly organized and disciplined. Power in the underworld in each of the main centers of population in the United States tended to become concentrated in a single group of racketeers, generally dominated by one individual. Exercising control over every form of illegal activity in a given area, such a man enjoyed vast power and

wealth and, consequently, aroused furious jealousy. Usually his reign was short, since his immunity rested solely on his being able to retain the goodwill of mutually antagonistic groups of big-business bosses, political leaders, police officials, and magistrates. When the inevitable crash came, the decision would be unanimous that the fallen leader must be prosecuted—if only that his successor might have a clear field. From the position which he had occupied it would be common knowledge that he must be responsible for countless crimes from murder downwards, but frequently, for convenience, some statutory, technical, or even imaginary, offense would be selected—in the case of Al Capone of Chicago, it was income tax evasion; in the case of Charles Luciano of New York, sharing in the profits of a minor chain of brothels. The actual details of the trial interested few; frequently the accused, with the ready consent of the prosecution, pleaded guilty to prevent more serious matters from being investigated.

The purpose of all such trials is the elimination of a notorious lawbreaker. Although such proceedings may be dismissed by some as an empty legal formality, probably injustice rarely results. From 1919 onwards, the American public had become accustomed to many prosecutions of this type. As a result, no widespread astonishment seems to have been felt when, after the entry of the United States in the Second World War, Mr. Roosevelt's administration began experiments to test whether the Soviet mock-trial could be successfully grafted on the American judicial system.

Of these experiments, the Mass Sedition Trial which took place in Washington in 1944 was the most remarkable. So far as its purpose was concerned, it was as completely a political trial as the mock-trial of the G.P.U. chief, Yagoda, in Moscow in 1937. "The trial was conceived and staged as a political instrument of propaganda against certain ideas and tendencies which are popularly known as isolationism, anti-Communism, and anti-Semitism by linking them in the public mind with Nazism."¹⁶ To achieve this aim, some thirty personally disconnected and mostly politically insignificant individuals were collected together and charged with having conspired to cause insubordination, disloyalty and mutiny in the American armed forces. No allegation was made that the defendants had ever

¹⁶ For a detailed examination of this trial, see *A Trial on Trial* by Maximilian J. St. George and Lawrence Dennis. (Chicago: National Civil Rights Committee, 1945.)

acted together for this purpose or, indeed, that one of them had ever committed an overt act of any kind. They were not accused of having done anything in breach of a specified law.

The case for the prosecution started from the assumption that Nazism was an evil conspiracy against the liberties of mankind. It was an easy matter to prove that Nazism was opposed to Communism and was bitterly anti-Semitic. From the fact that the Nazi Government had persistently ignored the various acts of provocation designed by President Roosevelt to involve the United States in the Second World War, it could reasonably be argued that the Nazis favoured isolationism and, once the United States had entered the War, it might be safely assumed that the Nazis would regard it as most desirable that the efficiency of the American armed forces should be weakened by insubordination. Now all the defendants could be proved to be either isolationists, anti-communist, or anti-Semitic. Therefore, argued the prosecution, the defendants were part of the Nazi world movement, one of the aims of which had now become, so it might be assumed, the production of disaffection in the American armed forces. Therefore, the defendants were clearly guilty of conspiring, if only unconsciously conspiring, to cause disaffection in the armed forces of their country. The Government case was based on the notorious principle of "guilt by association."

In itself, the Mass Sedition Trial of 1944 proved a dismal farce. Having dragged on for eight months, a mistrial was declared as a result of the presiding judge dying of heart disease. The indictment was later dismissed. The proceedings had merely served to demonstrate that a Soviet political trial could not be brought to a successful conclusion if conducted in accordance with existing American law. The real complaint against the defendants was that they had all, on one ground or another, opposed the entry of the United States into the War. It was undeniable that all were guilty of having opposed Mr. Roosevelt's foreign policy. In Soviet Russia, opposition to the government is a crime entailing grim and automatic penalties. But in the United States, in 1944, mere opposition to the government was not yet a crime and no ingenuity on the part of Mr. Roosevelt's legal advisers could remedy this fatal defect when the accused were competently defended.

Regarded as a judicial trial, the Mass Sedition Trial of 1944 was, as Mr. Lawrence Dennis says, "one of the worst fiascos

in the annals of American jurisprudence." It provided, however, valuable lessons for those who were already engaged in preparing for the trial of enemy prisoners of war when victory already in sight, was achieved. It confirmed the recent Russian discovery that the views of a government could be instilled into the public mind very effectively if expressed in the form of a speech by prosecuting counsel. It demonstrated that, in order to make really certain of a conviction, it was necessary that the defendants should be deprived of the protection of the rules of evidence. Most important of all, it indicated that, in cases where evidence of even a single unlawful act was entirely lacking, this deficiency could be readily overcome by bringing a general charge of criminal conspiracy to commit an unlawful act.

In the case of prisoners of war, the Secretary of War, Mr. Henry L. Stimson, had already drawn attention to an act which, if pronounced unlawful, would serve as a basis for a charge of conspiracy. As captured combatants, prisoners of war are obviously precluded from denying participation in the war. Now, by the Kellogg Pact, all the leading states of the world had formally "renounced war as an instrument of policy in their relations with each other." True, this renunciation did not include wars of self-defense—an inherent right of every sovereign state—and each of the important signatories had reserved the right to decide, each for itself, when a war was justified in self-defense. True, the only penalty provided for a breach of the Pact was that the transgressing power "should be denied the benefits provided by this treaty." The Pact had, in fact, been broken some ten times since its signature in August, 1928, and no one had suggested that the belligerents in any of these cases had become criminals.¹⁷ Obviously, however, if, when victory was achieved, the victors took it upon themselves to pronounce that the vanquished had been waging an illegitimate

¹⁷ In his recently published book, *U.N.O. and War Crimes*, Viscount Maugham devotes an entire chapter to an examination of the terms of the Kellogg Pact, the circumstances in which it was signed, and the various views expressed and interpretations advanced at the time it was signed, and in particular the assurances given by its author, Mr. Kellogg, to the U.S. Senate as to its scope and effect. Speaking with the authority of a former Lord Chancellor of England, Viscount Maugham dismisses without qualification the claim of the Nürnberg Tribunal to derive authority from the Pact to inflict punishment for breaches of its provisions. The Preamble of the Pact, he points out, declares its purpose to be "the perpetuation of the peaceful and friendly relations now existing," and adds dryly, "The execution or imprisonment of numbers of soldiers, sailors and statesmen of one signatory State after a war will scarcely contribute to that laudable end. It is likely indeed to lead to continued hostility." Viscount Maugham, *U.N.O. and War Crimes*, London: John Murray, 1951, pp. 64-72.

war, every citizen of the defeated state who had taken any active part, however humble, in the war, would be liable to a charge of having joined in a criminal conspiracy to wage aggressive war.

Nothing could well be more preposterous than any attempt to found the conception of war-crimes and the special criminality of waging an aggressive war on the Kellogg Pact of 1928. While the text of the Pact did renounce war as an instrument of national policy, the reservations insisted upon by Great Britain, France and the United States before they would sign, made of the Pact a hollow sham—what Harry Elmer Barnes, in his *History of Western Civilization*, not unfairly has called “the most somber and colossal monument to the folly of the formula enthusiasts.” Further, no specific penalties were imposed for violation and no machinery set up for executing penalties if they had been provided for.

While the Pact semantically repudiated war in the abstract, the reservations eliminated from its scope and operation virtually all conceivable types of probable war in contemporary times: wars of national defense; wars in execution of sanctions of the League of Nations; wars in defense of special areas and vital national interests; and wars in execution of previous treaty obligations. It is obvious that any astute diplomat could defend almost any imaginable war under one or another of these exempted categories. Thus exempted, they could not very well be regarded as “aggressive.”

The eminent American authority on international law, the late Professor Edwin M. Borchard of Yale University, in an address before the Williamstown Institute of Politics, at the very time the Pact was being signed, made it clear that the Pact was not only futile as a restraint upon war but, by direct implication, had for the first time in human history put the moral force of the world behind all probable wars. It could only be logically assumed that the wars exempted from the scope of the Pact must be good and commendable wars. Otherwise, why would they have been exempted? It is a curious fact that the Kellogg Pact could have been more logically invoked in defense of those accused at Nürnberg than exploited for their condemnation.

A more or less accidental circumstance facilitated the acceptance of the view that, in essence, the Second World War amounted to the rounding up, capture and punishment of sev-

eral nations of criminals. Many years before, there had grown up among the foreign immigrants inhabiting the slums of the great ports of the East coast of America and, in particular, the slums of New York, a curious patois bearing the same relation to the language of Emerson and Henry James as the pidgin English of the treaty ports of China bears to the language of Milton. This patois became the language of the American underworld and, when gang life became a favorite subject for talking films, this patois was adopted by wide sections of the population generally. Its capacity to express a simple assertion with a minimum number of syllables made it an ideal medium for newspaper headlines.

Originating among a slum population of either criminal or those on the borderline of crime, this patois was naturally rich in words and expressions associated with crime, its detection and punishment. Its similes and metaphors were such as would naturally come to persons who spent their lives evading the penalty of their misdoings; implanted on it was the stamp of the police court and the gallows. The conception was taken over by the American police, especially in connection with the so-called “third degree”—a continuation of the ancient practice of torture in the twentieth century. This procedure was justified by the police on the ground that the repression of crime is, in reality, *war on criminals*.¹⁸ The adoption of this idea and terminology by the politicians and generals of a country at war insensibly created a novel and peculiar attitude of mind. The national foes ceased to be gallant enemies to be overcome by fighting, and became a magnified gang of crooks. Seen thus, the task ahead presented itself as a kind of supermanhunt in which the enemy was to be forced to leave his hide-outs, got on the run, overpowered, and then brought to trial and executed.

In short, a “policeman fixation” or complex was created. A soldier subject to this fixation ceases to be a soldier, in the sense in which Moltke, Kitchener, and Foch were wont to use the word, and becomes in his own eyes a sort of guardian of the peace, while any citizen of a state at war with his own becomes, *ipso facto*, a criminal evading arrest and punishment. A lynching mob psychology is thus created.

¹⁸ See H. E. Barnes and N. K. Teeters, *New Horizons in Criminology*, New York: Prentice-Hall, 1945, pp. 274ff.

In Great Britain, the conception of a trial leading to an intended and inevitable result was a complete novelty, a contradiction in terms. To the Russian mind, on the other hand, as we have seen, innocence or guilt did not enter into the matter: according to Marxian ideology, the prisoners in the dock were anti-Communists requiring immediate liquidation, a fate equally merited by those members of the tribunal itself who were officials of capitalist states. To the American mind, obsessed by a policeman fixation, there existed a presumption of guilt from the fact that the accused were subjects of a state at war with the United States. But, in Great Britain, the traditional European view of war as an armed struggle between honorable opponents who happened to have conflicting interests still persisted, although even here this view was gradually becoming overshadowed by a policeman fixation similar to that prevailing in America.

The task of the British emotional engineers in regard to the war trials was, in consequence, far harder than that of their colleagues in the U.S.A. They rose, however, nobly to the occasion in a manner worthy to be set beside their handling of the situation brought about by "the splendid decision of May 11, 1940," which terminated the epoch of civilized civil warfare in Europe. They were assisted, no doubt, by racial memories of times when a general massacre of the vanquished, preceded by the performance of traditional rites, was the normal manner of bringing a successful war to a conclusion. Adverse criticism, in the main, was met by the simple procedure of not printing or reporting it. When this procedure failed, it was declared that adverse criticism of the proposed trial was equivalent to a declaration of belief in the innocence of the accused; in other words, an admission of being a supporter of the Nazi regime. Loud assertions that the Nazis were obviously guilty were considered adequate answers, first to the objection that no court existed or could be constituted having any jurisdiction to try the offenses alleged, and, second to the objection that, if the professed purpose of the trial was genuine, namely, to register a solemn condemnation of the Nazi régime for the benefit of posterity, this admirable purpose could only be achieved if the condemnation was pronounced by an impartial neutral tribunal.

It must be freely admitted that the stage management at Nürnberg was excellent, far superior to that of many of that

series of mock-trials which have been such a prominent feature of Russian political life under the Stalin regime. In fact, several of these Soviet mock-trials were hopelessly bungled—in particular, the celebrated mock-trial of Zinoviev and Kamenev, in August, 1936, was so badly mismanaged that its promoter, the G.P.U. chief, Yagoda, was himself shortly afterwards condemned to a mock-trial and executed. No such crude mistakes were made at Nürnberg. In fact, it seems unanimously agreed that, if a stranger, say from Patagonia, who understood no language but his own, had visited the Court during the proceedings, he might well have imagined that normal judicial processes were in operation—provided, of course, that he did not tarry too long.

It would be outside the scope of this book to trace the course of the proceedings, to examine the various charges made, and to speculate on the reason why there was a departure from orthodox practice in disposing of certain of the prisoners. Rightly assuming the result a foregone conclusion, the public rapidly lost interest after the first few months. In legal circles, it was found impossible to maintain that the body labelling itself the International Military Tribunal had any jurisdiction to try the offenses alleged apart from the right of anyone who has another person completely in his power to try and condemn that person on any charge which fancy might dictate.

Apologists for the proceedings at Nürnberg were reduced to arguing that, although the verdict which everyone assumed from the start would be pronounced might not be legal, yet it would be just. This is, of course, the stock defense put forward in cases of lynching: probably in seven cases out of ten the negro victims of lynching in the southern states of the U.S.A. are, in fact, guilty persons.

Of the many charges brought against the surviving German leaders at Nürnberg, only one merits consideration in some detail here—the charge that the German occupying forces in Russia committed the mass-murder of several thousand Polish officers in the Katyn Forest near Smolensk. In itself, indeed, this atrocity possesses no features of particular interest or importance. Until it was included in the list of charges preferred by the Soviet Government for trial by the International Military Tribunal, the Katyn Forest Massacre was distinguished from a score of similar atrocities committed during the same period only by the fact that all doubt or dispute concerning it had been set

at rest soon after the discovery of the bodies. An investigation was carried on at the scene of the crime by an international commission headed by Dr. François Naville, Professor of Forensic Medicine at Geneva University. This commission published an unanimous report that these unfortunate Polish officers had been massacred by their Russian captors when in Russian custody as prisoners of war. On the facts disclosed, no other conclusion was possible.¹⁹

To the historian, the Katyn Forest Massacre is of unique importance, first and foremost, because of the light which it throws on the essential nature of the Nürnberg Trials. A consideration of the attitude of the International Military Tribunal to the charge relating to this crime provides the readiest means of deciding the extent to which this august body can be regarded as a judicial court of law. The inclusion of this charge against "the major Nazi war-criminals" by the Soviet Government also provides the earliest indication of the strength of that unity binding the United Nations upon which, in 1945, the future peace of the world was believed to rest. It raises, in addition, a number of subsidiary questions which can only be indicated here—Why did the Soviet authorities pick on the Katyn Massacre as the subject for a bogus charge? Why should they have desired, so soon after victory, to embarrass their capitalist allies? What political purpose was it hoped would be served by the inclusion of this bogus charge on the already overcrowded charge-sheet at Nürnberg? What were the individual opinions privately formed at the time concerning this charge by the non-Marxian members of the Tribunal?

The generally accepted view seems to be that this particular crime oppressed the Soviet authorities with an intolerable feeling of guilt which they were naturally anxious to transfer to other shoulders. But this explanation leaves out of account the fact that nothing proved or alleged concerning the Katyn Massacre would cause a convinced Communist the least concern or remorse. Marxism upholds, without qualification, the liquidation of persons or classes who cannot be assimilated by the proletarian state. The victims of the Katyn Massacre were a number of Polish officers amounting to some 15,000, who had surrendered to the Russians in September, 1939.

¹⁹ See Joseph Mackiewicz, *The Katyn Wood Murders*, London: Hollis & Carter, 1951, with a foreword by Arthur Bliss Lane, former U.S. Ambassador to Poland.

Except for a few hundred who had proved to be susceptible to Communist teaching, no trace of any of these prisoners could be found on the outbreak of war between Russia and Germany in June, 1941. The Soviet Government professed to be searching diligently for them. Stalin himself personally assured the Polish authorities that the search would be extended, if necessary, to the islands in the Arctic Circle.

The search was still supposed to be going on when in April, 1943, the bodies of 4,500 of the missing men were found buried in a great pit in the Katyn Forest near Smolensk, then in German-occupied territory. All had died by shooting. The approximate date of the massacre could be fixed by the fact that no letter, diary, or other document found on the bodies by Dr. Naville and his colleagues was dated later than April, 1940, over a year, that is to say, before the outbreak of war between Russia and Germany. All the victims were members of the Polish governing classes, upholders of that "reactionary Polish state" which had repulsed the Russian invasion of 1920 and which had been a thorn in the side of the Soviet Union ever since that time. No explanation or apology would be called for in such circumstances if the Soviet authorities had, indeed, decided to carry out a liquidation which, in any event, would ultimately be necessary when victory was achieved and Poland became a puppet Communist state. In Marxian legal terminology, the "objective characteristics" of these prisoners clearly justified resort to "the supreme measure of social security."

Why did the Soviet authorities, in 1945, insist on charging "the major Nazi war-criminals" with having committed the Katyn Massacre? The only tenable explanation appears to be that the Russian intention was to embarrass their capitalist allies. The intense seriousness with which the latter took themselves may well have invited Stalin to introduce this grim joke at their expense. The nature of the charge and the manner of its presentation suggest that those who brought it were inspired by a sense of humor rather than a desire to serve any precise political purpose. Deplorable though it may be, the proceedings at Nürnberg, to Communist eyes, appeared only a hypocritical and pompous substitute for the simple method of disposing of the prisoners proposed by Stalin at Teheran—"dispatching them before a firing squad as fast as we capture them." Anyone who professed to regard the proceedings otherwise must be, in Communist opinion, either a simpleton or a hypo-

crite. Misdirected humor may have had more influence during the course of history than some grave historians are willing to allow.

The careless manner in which the Soviet authorities presented their case strongly supports this view of the matter. Even if the facts of the Katyn Massacre had not been clearly established by Dr. Naville and his colleagues, they were too simple and too clear to provide material for easy distortion into a propaganda myth. But the Soviet authorities took no pains to fabricate even a plausible myth. The Tribunal was expressly empowered to accept hearsay evidence and documents at their face value. The Soviet authorities could, of course, have supplied the court with as many affidavits and documents as it desired. Instead, however, they laid before the Tribunal a threadbare fabrication and blandly asked that a conviction should be recorded.

It must almost have seemed to the non-Marxian members of the Tribunal that a deliberate attempt was being made to undermine the very principle upon which the Tribunal was established, the principle that a man is a proper judge of his own case. To record a conviction automatically on such evidence as the Soviet prosecutor was laying before the court, would be to permit the reduction of this principle to absurdity—*reductio ad absurdum* had to be avoided at all costs if the solemnity of the proceedings were to be preserved. The only prudent course was to maintain in public a dignified silence. No reliance, alas, could be placed upon the terms of the Charter. As the crime had manifestly been committed by order of the Soviet Government, it was not "a crime committed in the interests of the Axis countries." Consequently, the crime was plainly not one within the jurisdiction of the Tribunal. But to have given a formal ruling to this effect would have provoked an international crisis, imperilling the unity of the United Nations. All that could be done, therefore, was to preserve a rigid silence and to rely upon the unshakable dignity of the president of the Tribunal, Lord Justice Lawrence. Days were wasted listening to obviously fabricated evidence.

The court heard with compassion the testimony of the only witness called by the prosecution, the Bulgarian, Dr. Markov of Sofia University, who had been a colleague of Dr. Naville on the international committee of inquiry, had examined the mass-grave at Katyn, and had signed the unanimous report of

the committee that the crime had been committed by the Russians. By so doing his life had, of course, become forfeited, now that Bulgaria had become a puppet Communist state in Russian occupation. The Russians had now brought him to tell the Tribunal that he had changed his mind in regard to the facts which he had found three years before. The Tribunal heard him politely. No comment was made that the prosecution should have preferred to bring him all the way from Bulgaria and yet should have neglected to call the only witness who, as a citizen of a neutral state, was in a position to give dispassionate evidence—the Swiss professor, Dr. Naville, who was a readily available witness, living at Geneva, a short train journey from Nürnberg. The Tribunal heard the evidence for the prosecution to the end, and then turned thankfully to the consideration of crimes which, if committed at all, had been committed "in the interests of the Axis countries."

It appeared inevitable that a delicate situation would arise when, at last, the time arrived to deliver judgment. To record a conviction against the German leaders on the evidence produced to the court in respect to the Katyn Massacre would have been simply ludicrous. On the other hand, to record an acquittal would have amounted to an implied conviction of the guilty. These unfortunate Polish officers clearly could not have killed and buried themselves: indisputably they had been murdered by some one. Only the Russians and the Germans had been in a position to murder them. To acquit the Germans, therefore, would have been equivalent to convicting the Russians.

The International Military Tribunal, however, rose grandly to the occasion: at the close of the trial, the judgment of the Tribunal contained no reference to the Katyn Massacre.

It is only fair to stress that, having regard to its constitution, the Tribunal acted with strict propriety. Its authority did not extend to considering crimes committed by the Russians: once it appeared that the guilty parties were citizens of one of the victorious states, the Tribunal's jurisdiction abruptly terminated. Still, it is remarkable that the significance of this episode of the Nürnberg trials passed unnoticed by the general public. Over three years later, the man in the street did not apparently feel his intelligence insulted when he was solemnly rebuked by the audacious Mr. Anthony Marlowe, K.C., M.P., for overlooking the fact that "the whole purpose of the trial

of war criminals was to establish that *there is only one standard of justice*."²⁰

The only feature of the Nürnberg war-trials which aroused great astonishment at the time was the omission from the indictment of any charge of having initiated indiscriminate bombing of civilians. This astonishment is understandable, since the claim put forward so positively by Mr. J. M. Spaight in his authoritative book, *Bombing Vindicated*, that the bombing of civilians originated from a "splendid decision" of the British Air Ministry, had aroused little or no attention when publication of this book was so incautiously permitted in April, 1944. It was not until several years later that, as we have seen, Mr. Justice Jackson disclosed that this omission was only decided on, after much anxious deliberation, because it was feared that, to raise the subject of bombing, would be to invite re-creminations which would not have been *useful* at the trial.

In British legal circles, a certain resentment was felt against the stage managers of the Nürnberg proceedings over the way in which they had managed to provide that Great Britain should be represented on the Tribunal, not by a couple of obscure lawyer-politicians, but by two of His Majesty's judges and, worse still, that one of these should act as chairman of the proceedings. By this adroit stroke, the war-trial at Nürnberg became immediately distinguished from the other war-trials then taking place throughout Europe. But for it, no doubt, the doings at Nürnberg would have quickly sunk in popular estimation to little above the naked and unashamed doings of one of the murderous Czech "people's courts" or of one of the Soviet "prisoner-of-war-disposal" tribunals.

From the point of view of the stage managers, this arrangement unquestionably proved eminently satisfactory. To its adoption must be attributed the noteworthy achievement of carrying through such an essentially Eastern European production as a war-trial in accordance with the forms and usages of a trial at the Old Bailey. That this was accomplished without outstanding lapses was as remarkable an achievement as would be the successful staging of a bull-fight at Lords by the M.C.C. Certainly, Mr. N. W. D. Yardley in the role of a toreador would not be more completely out of his element than an Eng-

lish High Court judge in the role of chairman of the Nürnberg proceedings.²¹

Nevertheless, the doubt was raised whether it was justifiable to use the world-wide reputation of British justice to silence criticism of what may be described as an international political demonstration. Of all the many boasts of superiority to foreigners which Englishmen are accustomed to make, the one that can be made with the least fear of contradiction is that, in Great Britain, the standard of justice is higher and its administration purer than in any other country in the world. Was it justifiable, therefore, to use the aura of respect with which Lord Mansfield and the other great exponents of the English Common Law had surrounded the administration of justice in England in order to stifle all public objections to extremely questionable proceedings? Was it fair, by the appointment of an English chairman, to give the impression that Great Britain was the prime mover in a business, the inspiration of which came, in fact, from Moscow?

It is much to be regretted that the painstaking efforts of Lord Justice Lawrence to deal with the evidence and to conduct the hearing precisely as if he had been presiding at the Old Bailey should have received so little outside support. The press, almost without exception, persisted throughout the long hearing in referring to the accused as criminals and gloated quite frankly over the details of what may be described as the "pre-conviction punishment" being inflicted on them prior to hanging—the discomfort of the seats provided in the dock; the dilapidated clothing of the prisoners, in the case of the generals and admirals, stripped of all decorations; the rigors of their confinement; the petty indignities inflicted on them, and the meager diet supplied. The solemnity of the reports in the newspapers describing the progress of the proceedings were also often completely ruined by lack of discrimination in reporting at the same time incongruous items of news. Thus, on a main page appearing on October 19, 1945, under the impressive headline, "Humanity's Indictment of Nazis," is to be found a minor headline, "Babies Die, Mothers Go Mad On Train" over a cheery little report describing the horrors then taking place as the inhabitants of Pomerania and Silesia, to the num-

²⁰ See the *Daily Mail*, May 6, 1949.

²¹ Lords is the famous London cricket ground, the headquarters of the M.C.C. (Marylebone Cricket Club), the governing body of this aristocratic English game. It dates from 1787. N. W. D. Yardley is the famous English county cricketer and test captain.

ber of several millions, were being ejected from the homes occupied by their ancestors since the Middle Ages, and deported, in open trucks and lorries, stripped of all they possessed, to a strange land. What chance could a gesture in the name of humanity and justice have against such a background?

It may further be doubted whether the choice of Nürnberg for the performance of the proposed war-trial was altogether judicious. Nürnberg is one of the most intensely European cities of Europe. In the Middle Ages, it was one of the principal centers of European civilization, situated on the great trade route along which passed the products of the Orient to the Rhine Valley, then the main artery of Christendom. Misgivings were also expressed lest the stench of the dead bodies of the men, women, and children still buried beneath the ruins of its wonderful old buildings, might endanger the valuable health of the troops of judges, hangmen, jailers, and barristers attending the proceedings. This grave danger, happily, did not lead to disaster, but the blackened heaps of debris, mute witness to the splendid decision of May 11, 1940, made an incongruous setting—although, fortunately, no one seems to have noticed it.

Yet another discordant note was struck through the inability of the Soviet authorities to resist any opportunity to poke sly fun at their capitalist allies—for example, they solemnly adduced in evidence “a jar of human soap,” alleged to have been made from the bodies of executed prisoners—a manifest gibe, in the worst possible taste, at the famous “Corpse Factory Myth” put into circulation with the aid of forged documents by the British emotional engineers during the war 1914-1918.²²

To make matters worse, while the Tribunal was laboriously considering charges against the accused of having planned aggressive wars, the most authoritative spokesmen on the side of the conquerors, Mr. Winston Churchill and Mr. Stalin, took occasion to choose this most inopportune moment to exchange charges, not only of having planned wars of aggression in the past, but of being right then occupied in plotting future wars of aggression! However justified these charges in both cases may have been, they provided a grotesque background for a ceremony supposed to demonstrate the holy horror felt by the victors at the practice of waging aggressive wars. The nearest analogy to the situation thereby created would be for the reader

to try to imagine a court of criminal appeal with the president dismissing the appeal of a convicted burglar and his solemnly homily on the wickedness of theft being interrupted by his colleagues pointing out that he himself had been repeatedly convicted of burglary and was at that moment planning a grand coup! To complete this fantastic analogy we must try to imagine the president retorting that they themselves were old recidivists who had even brought their burglarizing tools with them to court ready for an expedition that very night. . . .

It must again be stressed that none of the considerations mentioned above should be taken to suggest that the accused were, in fact, innocent of all, or even a substantial part, of the charges brought against them. On the contrary, it may reasonably be maintained that many of them were guilty—so far as it was possible for them to incur guilt in a struggle with opponents who had declared that, in waging war, “there were no lengths of violence” to which they would not go. The assumption that the bulk of the charges may have been well founded only strengthens the argument that these charges should have been examined by a properly constituted neutral tribunal, to the findings of which future historians would be forced to pay attention. The danger must be faced that the carrying out of this investigation in the manner in which it was carried out may have precisely the opposite result to that desired—namely, to awaken sympathy, if quite possibly mistaken sympathy, for the accused. Thus, the trial of Charles I by a court with no jurisdiction to try him, composed of his political opponents, has had precisely this result. Few can now read an account of this trial without becoming insensibly influenced in Charles’ favor. The verdict itself, of course, has not the faintest weight with historians. Opinions are still divided concerning Charles: some consider him, in the main, a well-meaning monarch, more sinned against than sinning; others consider him, on the whole, a weak and irresponsible tyrant. No one would dream of quoting the verdict of John Bradshaw and his fellow regicides as having decided the matter.

Charles I thus owes much of the sympathy with which he has come to be regarded by posterity to his shameful trial and death by violence. An even more famous political trial has had precisely the same result; the exact opposite, of course, to that intended. If the English had quietly strangled Joan of Arc in her cell and then announced she had been killed while trying

²² See Arthur Ponsonby, *Falsehood in Wartime*, London: Allen and Unwin, 1928, Chap. XVII.

to escape—a procedure as common in the fifteenth century as during the Black-and-Tan Terror in Ireland, in 1920—she would now be remembered merely as a peasant girl to whom popular report attributed a prominent part in the relief of Orleans, in 1429, by the French, itself a mere episode in an interminable civil war which had then been raging with varying fortune for nearly a century. Nothing would have survived concerning her personal character, and her achievements would soon have probably been dismissed as mainly legendary. Yet, contrary to the popular view, her trial was neither a mock-trial nor a war-trial. It would have been easy for the English Regent, the Duke of Bedford, to have had her tried for war-crimes by a tribunal composed of a selection of the disgruntled warriors who had fled before her at Pathay. In place of adopting this course, the Duke elected to hand her over to an ecclesiastical court presided over by the Bishop of Beauvais in whose diocese she had been captured, there to be tried on charges of "divers superstitions, false teachings and other treasons against the Divine Majesty."

No doubt, the English were determined in any event to encompass her death; no doubt, their real complaint against her was that she had ignominiously defeated English troops. But to the conduct of the trial itself no valid objection can be taken. The jurisdiction of the Court to try her on charges of offenses against God and the accepted beliefs and morality of Christendom can not be questioned. In any country in Europe, persons so charged would have been brought before a similar court representing the same international authority. In theory, at least, such a court was far above political considerations, and at any rate it acted in accordance with an elaborate and well-established system of law, clarified by copious precedents and governed by strict rules of procedure which, for centuries, had been accepted by every Christian country. No question arose, therefore, as at Nürnberg, of inventing a novel system of law in order to establish breaches thereof. It is not necessary to speculate here as to what the English Government might have done had this ecclesiastical court acquitted her, since this court condemned her, largely on her own admissions, on the charges made against her. As Mr. Bernard Shaw says in *Saint Joan*: "She was condemned after a very careful and conscientious trial."

Not her actual achievements but the decision of the English Government to bring about her death in a strictly legal, orderly, and public manner, established the fame of Joan of Arc, enriched the history of the Middle Ages with their most picturesque figure, gave France a national heroine, and ultimately added her name to the calendar of the saints.

Almost without exception, the records of the past show that trials, the main object of which is political, whether they be grotesque mock-trials or "careful and conscientious" judicial trials, fail dismally in their two main objects. Instead of discrediting the accused in the eyes of posterity, they bestow on them fame, publicity, interest and sympathy. In place of establishing for all time the victors' point of view by a final finding of facts, they arouse distaste and resentment against the victors. Self-satisfied rectitude, even when justified, is rarely an attractive spectacle, and moral indignation, when clearly not disinterested, is very likely to be mistaken for hypocrisy.

When seeking to ascertain the real nature of a certain episode, it is always illuminating to find how that event later presented itself to the mind of one who had played a prominent part in it. The reference to the Nürnberg war-trials by the President of the Court, Lord Justice Lawrence, now Lord Oaksey, in his speech in the House of Lords during the debate on the abolition of capital punishment on April 27, 1948, is, therefore, specially noteworthy. Selecting his words with judicial care, His Lordship observed, "We have just, as a nation, been joining with other nations in putting to death our enemies in Germany."

To this description of the Nürnberg proceedings no possible objection can be taken. It is both clear and adequate. But can it be regarded as any more than another way of saying that we had been taking part as a nation, along with other nations, in the trial and execution of certain criminals who happened by the merest chance to have been our national enemies?

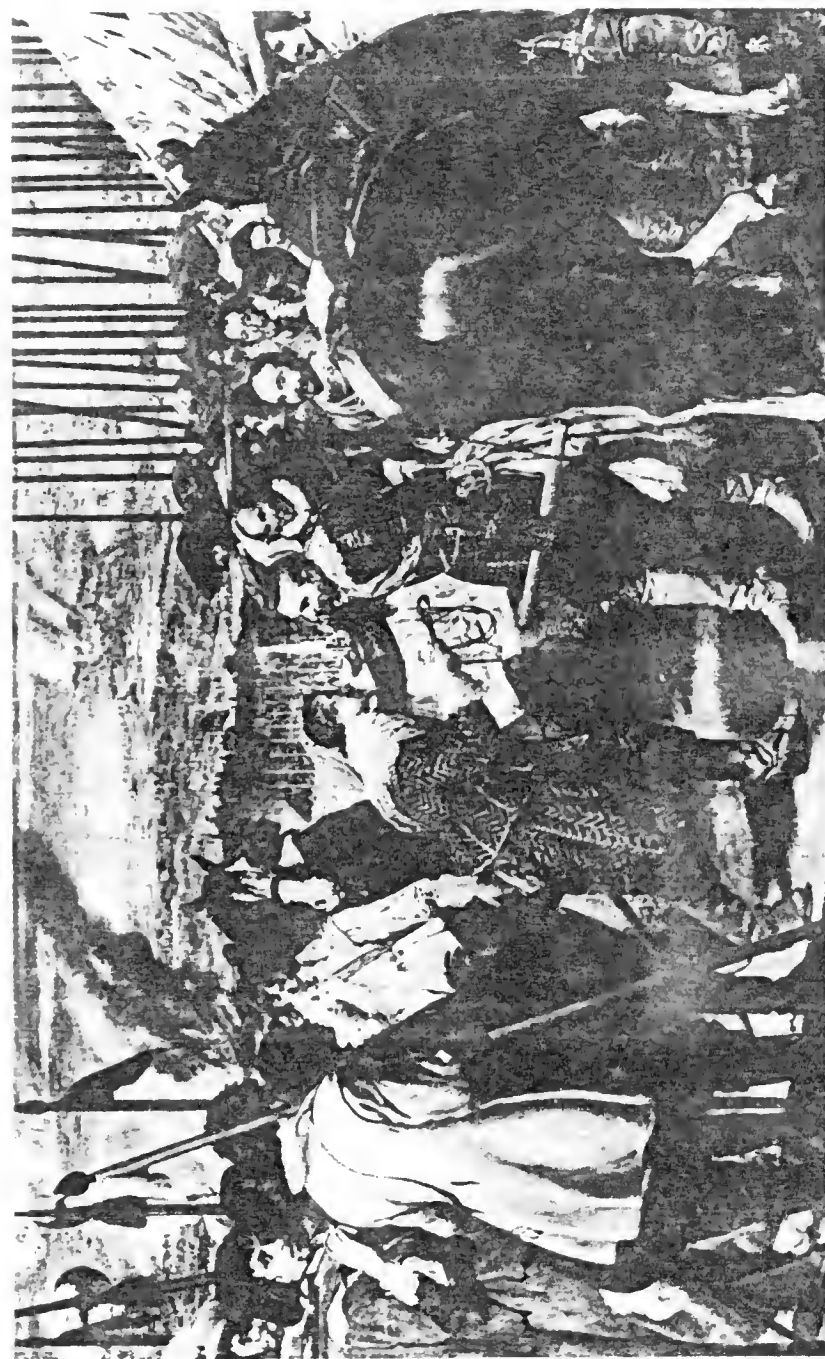
Whatever Lord Justice Lawrence may have intended, the view that the proceedings at Nürnberg consisted in the putting to death of national enemies has been cheerfully endorsed by Field Marshal Montgomery. Speaking in Paris on June 9, 1948, he said, "The Nürnberg trials have made the waging of unsuccessful war a crime: the generals on the defeated side are tried and then hanged."

Whatever else they may have achieved therefore, the Nürnberg proceedings have added a new word to the dictionary, "to try-and-hang." In Napoleon's armies it was said that every recruit carried a field marshal's baton in his haversack; from now onward, it can be said with much greater assurance that every officer in a modern army above a certain rank carries a rope around his neck.

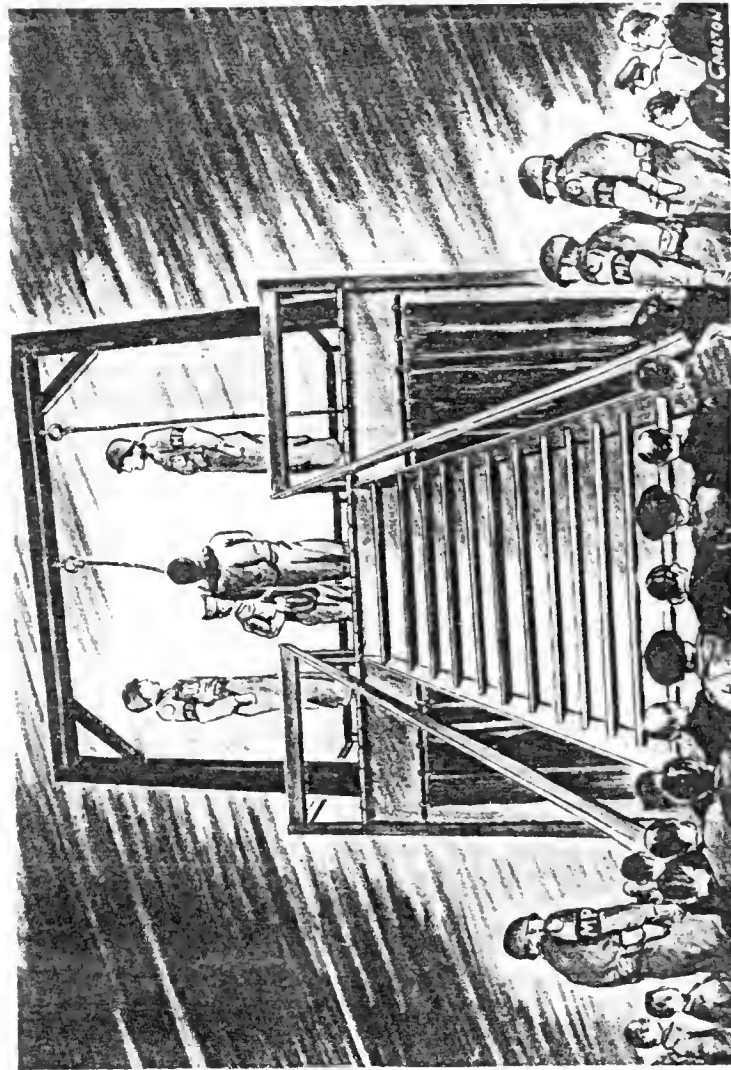
Within twelve months after Field Marshal Montgomery's speech, his conclusion was endorsed and extended by the Chinese Communists who, when they captured Shanghai in May, 1949, announced that all prisoners of war of and above the rank of colonel would be deemed "war-criminals" and treated accordingly. Already, therefore, the definition of a "war-criminal" as a victim of a war-trial has become obsolete; by this new ruling all the senior officers of a defeated army become automatically war-criminals and, as such, can be hanged without the preliminary of a war-trial.

It is probably mainly due to the complete misconception which prevailed as to the real nature of the Nürnberg proceedings that they took their course without arousing much active opposition. In some respects, the grim outcome came as a surprise to many. A justifiable distinction had been generally drawn between the position of Hermann Göring, on the one hand, and of Field Marshal Keitel and Admiral Raeder, on the other. The former, although a Field Marshal and once a fighter pilot in Baron von Richthofen's famous air fighting circus, was primarily a politician. In all ages, even the most civilized, politicians have always claimed and been accorded peculiar latitude in their dealings with each other. Even in the heyday of English parliamentary life, politicians of the stamp of Gladstone took liberties with the truth, made promises which they knew were incapable of fulfilment, and recklessly attributed all kinds of unworthy motives to their rivals in a way which, outside the world of politics, they themselves would have considered dishonorable. In 1946, therefore, it was generally agreed that Hermann Göring would be executed. He would suffer not as a soldier but as a politician.

The cases of Field Marshal Keitel and Admiral Raeder were regarded as in quite a different category. The one was a professional soldier of the highest rank and the other a distinguished professional sailor; both were prisoners of war. No one treated seriously the ridiculous quibble that they had some-



The "Surrender of Breda," by Diego Velasquez (1599-1660). This picture by the great Spanish painter depicts the attitude toward captured enemy leaders which prevailed during the period of chivalry and civilized warfare. (See comment, p.61 above). It should be compared with the following one illustrating the treatment of captured leaders after the reversion to barbarism during the second World War and the war-crimes trials.



—Wide World Photos.

Artist's conception of execution scene when the convicted Nazi defendants (except for Göring who committed suicide) were hanged early in the morning of October 16, 1946. Drawing was made by Associated Press Staff Artist, John Carlton, on the basis of eyewitness descriptions.

how ceased to be prisoners of war because some foreign governments had chosen to declare that the German Army and Navy were to be considered abolished for the time being.²³ It was felt that, while pettifoggery of this kind would have delighted the hearts of those astute practitioners, Messrs. Dodson and Fogg, late of Freeman Court, Cornhill, and might appeal to their spiritual descendants, it would not be tolerated for an instant by the prisoners' professional brethren serving on the side of the victors.²⁴ Any act of real violence against them would not only cast an indelible slur on the profession of arms, generally, but it would also reduce the status of the professional soldier to that of a gunman, hired by a gang chief to take part in some underworld vendetta with the knowledge that failure would be penalized by death. To any people above the level of primitive barbarism, the person of a prisoner of war is sacred. Any violent outcome was, therefore, unthinkable. The general belief was that, after a theatrical reprimand, not intended to be taken seriously, both gentlemen would be discharged to spend the remainder of their days in some German equivalent of Bath or Cheltenham, writing their memoirs and dreaming of the days when they had played a leading part in the world's affairs.

On October 15, 1946, Field Marshal Keitel was hanged at Nürnberg. With him died General Jodl. A long epoch of history was thereby abruptly closed. At the same time, Admiral Raeder, in spite of his dignified request to be allowed to share the fate of his comrades, was sentenced at the age of seventy-four to forced labor for life in a convict prison.

The fate of Field Marshal Keitel is completely without precedent not only in the annals of Europe since the Dark Ages, but in the history of civilized times in any part of the world. It may be urged that the fate of General Gordon, in 1885,

²³ In a photograph described as "the last of the Nürnberg trials which opened on February 5th, 1948," published in the *Illustrated London News* of March 6, 1948, it will be noted all the thirteen occupants of the dock, three Field Marshals, nine Generals and one Admiral, are duly attired in civilian clothes. This is no chance circumstance but an essential feature of the proceedings, the accepted legal theory being that a soldier ceases to be a soldier and loses all his rights as a soldier if he be stripped of his uniform. By the same reasoning, of course, a king must be deemed to abdicate every time he retires for the night unless he takes the precaution of wearing his crown in bed as a nightcap!

²⁴ Dodson & Fogg were the attorneys who acted for Mrs. Bardell in her action for breach of promise against Mr. Pickwick. Mr. Pickwick formed a very low opinion of their methods. See the *Pickwick Papers* by Charles Dickens, in particular Ch. 20. The nearest American analogy would probably be the famous firm of Howe and Hummel in New York City around the turn of the century. See Richard Rovere, Howe and Hummel, *Their True and Scandalous History*, New York: Farrar, Straus, 1947.

offers some parallel, but examination will show fundamental distinctions. In the first place, accounts differ as to the manner of General Gordon's death—according to the account accepted by Mr. Strachey, General Gordon was never taken prisoner at all but was speared, fighting sword in hand against the Mahdi's followers. Secondly, if the account be accepted that his head was cut off after he was made prisoner, it is at any rate certain that but a short space of time elapsed between his capture and his death. The Mahdi was a barbarian and a religious fanatic but there is no evidence that he personally, in cold blood, ordered General Gordon's execution. Most certainly, he did not deliver him over to a court of Mullahs for investigation of his war crimes. The English General was either killed fighting or was butchered immediately after capture by the victorious Dervishes, carried away by the frenzy of battle and maddened by the terrible losses which they had sustained in the storming of Khartoum. The two cases would only be approximately parallel had Field Marshal Keitel been knocked on the head immediately after capture in the excitement of the moment by irresponsible individual soldiers pardonably misunderstanding the repeated official exhortations of their superiors not to pamper the defeated enemy.

The whole significance of the fate of Field Marshal Keitel lies in the fact that it took place in cold blood. Had he suffered the fate of General Gordon, the only consequence would have been, at most, a court-martial leading to sundry reprimands and perhaps a few casual references in Parliament extenuating a regrettable incident. It would, in fact, have been simply a regrettable incident, without importance, interest or significance. But Field Marshal Keitel was deliberately put to death in cold blood after being a prisoner of war for eighteen months, during which he was subjected to an ordeal so protracted that the hottest blood had time to cool in the atmosphere of unreality and boredom into which the proceedings at Nürnberg gradually subsided after the first few weeks. Whatever extenuations may be urged in due season concerning the hanging of Field Marshal Keitel, the fact cannot be disputed that what happened was done in cold blood after many months had elapsed for deliberation. It is this lengthy period for deliberation which preceded the Field Marshal's death by violence which gives this event its unique importance.

When Wilhelm Keitel joined the Army, in 1901, he entered a profession enjoying unprecedented prestige and universal esteem. Inconceivably remote had come to seem that dim past when warfare had first begun with murderous scuffles between one hunting group, driven by a change in climate to seek new hunting grounds, and a similar group, determined to defend their hunting grounds from all intruders. Fighting was then an unseemly haphazard affair, without planning, leadership discipline or tactics—a wild exchange of shouts and blows followed by the clubbing to death of all on the defeated side who could not run away fast enough. Gradually, very gradually, order and method had been introduced and, at length warfare was brought by the Assyrians to very high levels of technical perfection. But it had long remained in spirit a crude and barbarous business until, at last, in Europe some two centuries before Keitel's birth, rules had been laid down regulating warfare and, in particular, excluding all but uniformed combatants from participation in hostilities. This innovation had had the ultimate effect of turning warfare, so far as the ruling class of Europe was concerned, into a sort of social rite, from the mysteries of which mere civilians were debarred. Only the uniform of the soldier was considered worthy for the public appearance of royalty. The sword—by 1901 a long obsolete weapon—was carried even by the most peaceful diplomats as a symbol of dignity.

In the lifetime of one man, "the whole majestic process" (as Mr. Spaight would say) which had gone on for five thousand years was abruptly reversed and warfare was restored within fifty years to its original pristine simplicity.

"Gone forever," writes Captain Liddell Hart, "are the romantic vaporings about the heroic virtues of war"—the theory held without question in 1901 that success in war was a sure proof of a people's fitness.²⁵ General J. F. C. Fuller, in his *Armament and History*, has drawn for us the prospects of future warfare—"atom-charged and self-propelled rockets hurtling through the stratosphere," set in motion, not by a declaration of war but by "a splendid decision," and guided by radar, landing exactly on their targets thousands of miles away²⁶—and concludes that, providing any life be left at the end on earth

²⁵ *The Revolution in Warfare*, p. 33.

²⁶ J. F. C. Fuller, *Armament and History*, London: Eyre & Spottiswoode, 1946, p. 195.

"the victors will then proceed to liquidate the vanquished as war criminals."²⁷

It will be noted that General Fuller assumes without argument, as a matter of course, that this liquidation will follow the precedent set at Nürnberg.

Granting the change in technical methods of warfare demonstrated by the destruction of Hiroshima is an epoch-making development, the change in the spirit of warfare demonstrated at the Nürnberg war-trial is equally epoch-making. While it is an important fact that rulers now possess such a weapon as the atom bomb, the character of those who possess this weapon is surely an equally important fact. The Nürnberg war-trial provides the clearest evidence of this character. Hiroshima demonstrated what can be done; Nürnberg demonstrated that what can be done, will be done.

²⁷ The treatment which may now be expected by a prisoner of war of too high a rank to be used as slave labor but not sufficiently distinguished to be done to death summarily or after a mock-trial can be gathered from a recently published book, *Fallschirmjäger* (1951), by General H. B. Ramcke, the heroic defender of Brest. Captured in September, 1944, no charge was preferred against him until April, 1950. Nevertheless, for more than five years preceding this date, he had been treated, first by the British and then by the French, as a convicted criminal. He was kept in close confinement in a cell except when he was being transported publicly in fetters from one prison to another. At his trial in March, 1951, he was completely cleared of the absurd charges brought against him. This was brought about mainly through an affidavit submitted by his captor, the American general, Troy H. Middleton, whose scrupulous regard for the rules of European civilized warfare contrasted strangely with the disregard of these rules by the British and the French. In recognition of the falsity of the charges brought against General Ramcke, the French military court sentenced him to only five years forced labor, which sentence entitled him to release three months later. General Ramcke's book is of great interest and importance because it is the first well-written and fully documented account of the experiences of a military prisoner of war under the conditions which now prevail since the European code of civilized warfare has been abandoned.

CHAPTER VIII

ONWARD FROM NÜRNBERG

It may well be that, seen in perspective, the celebrated war trials which began at Nürnberg on November 20, 1945, and lasted until October 16, 1946, will come to be regarded as only an episode of one of the most remarkable of those international mass-movements which, from time to time, have swept over Europe.

The nearest parallel to the mass-movement which began in May, 1945, will be found in the witchcraft persecutions which began in the fifteenth century, culminated during the second half of the sixteenth century, and died out towards the end of the seventeenth century, by which time tens of thousands had perished in revolting circumstances and with universal approval. The reason is certainly not apparent why the peoples of Europe, around about the year 1400, should suddenly have become obsessed with a frenzied fear of witchcraft at this particular date: why not centuries before or centuries later? Similarly, an explanation is required why, in 1945, every leading nation in Europe which was so fortunate as to find itself on the winning side felt itself compelled to put on trial and to liquidate its prisoners of war. Why, for example, did not the victorious nations, in 1815, feel under a similar compulsion? Most certainly, the explanation is not that the events of the period from 1792 to 1815 failed to provide abundant grounds for exactly the same charges as those brought forward at Nürnberg. Clearly, some inhibiting influence must have operated in 1815 which had become moribund in 1945.

Whether the reasons suggested in the earlier part of this book be accepted or not, the fact remains that, in 1945, the peoples of Europe on the winning side suddenly reverted to the customs of the Late Stone Age when their ancestors had reached the same stage of development as the Red Indians who opposed the first European settlers in North America. Throughout Europe, there began, in 1945, what in essence amounted to but thinly disguised dances round the torture stake. In some countries—notably in Czechoslovakia—this obscene capering was not even decently veiled: the so-called trials were but slightly modified versions of the traditional Act of Gloating

and the actual killing was performed in public, the relatives of the alleged victims of the prisoner being honored with front seats which it was their patriotic duty to occupy.

This remarkable and, to anthropologists, interesting development, although so general and widespread, took place without exciting any particular comment or criticism. This was mainly due to the fact that the Nürnberg war-trials completely overshadowed all other similar proceedings. In this book, it is impossible to do more than state that, during the eighteen months which followed the termination of hostilities, no less than 24,000 war-trials in various parts of Europe are said to have taken place. War-trials continued to be held for upwards of five years. Volumes would be required to deal adequately with their details, and material for even inadequate treatment is at present lacking. Whereas the Nürnberg war-trials were commenced and carried out in a blaze of worldwide publicity, the war-trials conducted independently by the various victorious countries were, with few exceptions, reported only in the countries in which they took place. The movement as a whole awakened no general interest.

The pre-eminence of the Nürnberg group of war-trials was due to no accidental circumstance. In the first place, all the resources of modern emotional engineering were mobilized to arouse public enthusiasm throughout the world for the Nürnberg war-trials, which were presented as a sort of combined victory parade, act of retribution, judicial trial, and international jollification. The afore-mentioned proposal that a select party of British ladies should travel to Nürnberg (as V.I.Ps), in order to abash the prisoners with their indignant stares, well illustrates the spirit in which the proceedings were commenced. Although, after a few months, public interest began to flag, to the very last no pains were spared to combat the evergrowing apathy. When, finally, judgment was given, it was proposed that the executions should be filmed so that the man in the street could enjoy the spectacle in his local cinema.

In contrast to the wealth of highly spiced news with which the public was overwhelmed concerning the Nürnberg war-trials, only disconnected items of information were published concerning the war-trials taking place elsewhere. This was only partly due to the policy adopted of suppressing any news which might distract attention from the doings of the International Military Tribunal. Far more, it was due to an uneasy conscious-

ness that but few of these war-trials would be likely to bear investigation or publicity. At Nürnberg, the constitution of the court insured that the proceedings would be conducted with dignity and decorum and, within the limits fixed by the Charter, there would be some genuine intention to dispense justice. From British and American military courts the formalities of a sort of rough justice might indeed be hoped for. But from the Poles, Czechs, Serbs, and Greeks, it would be absurd to expect even an attempt to keep up appearances of judicial decency. This, in itself, would have mattered little but for the fact that all these war-trials, from the august proceedings at Nürnberg down to the crudest variety of mock-trial carried out beyond the Iron Curtain, purported to have the same legal basis, were justified by the same arguments, originated from the same decision by the victors, and carried into effect the same newly discovered principles of justice. How, under these circumstances, could the British and American publics be expected to watch with proper awe the progress of the proceedings at Nürnberg if it was known that, all around, wild burlesques of these proceedings were taking place? It should be remembered that, for at least two years after the War, the fiction was maintained that no breach existed between the Soviet Union and the Western Powers. Later, of course, when this fiction was dropped, it became possible to dismiss the enormities perpetrated at the war-trials held east of the Iron Curtain as only the natural result of the poisonous effects of Communism. But, while the Nürnberg war-trials were in progress, an invincible presumption existed that every nation that found itself on the winning side must be inspired by the same lofty motives. Consequently, it had to be assumed, without question, that all the war-trials then taking place were directed to the same object, namely, the vindication of the underlying distinction between right and wrong.

Although, after the first frenzy had passed, the British and American publics quickly wearied of the whole subject, war-trials only ceased, even in Western Europe, more as a result of the exhaustion of the supply of victims than through any weakening of popular support. Thus, as late as March 1951, General Ernst von Falkenhausen, after waiting in captivity for nearly six years, was sentenced to twelve years hard labor by a Belgian military court for war-crimes. This conviction is truly remarkable, since by this date what Mr. Churchill has aptly

defined as "the process of belated conversion to the obvious" had proceeded so far that it had become universally acknowledged that the only hope possessed by Belgium and the other states of Western Europe of escaping eventual occupation by the Red Army lay in enlisting German support. It is as noteworthy as it is paradoxical that the savage sentences passed by the French and Belgian military courts appear to be attributable to the fact that these courts were mostly composed of officers, formerly prisoners in German hands, who owed their own lives to the rule of civilized warfare that a soldier who surrenders is entitled to honorable detention as a prisoner of war. Seemingly, this circumstance generated among them a rather illogical determination to demonstrate enthusiasm for the new dispensation by extreme severity.

It is impossible here to do more than give a passing glance at the war-trials which took place in Asia. Of these, the mass trial at Tokyo of Premier Tojo and twenty-six other prominent Japanese political and military leaders was the most important. It naturally aroused great interest in America but passed practically unnoticed in the British press. In duration, it surpassed even the Nürnberg war-trials, lasting no less than 417 days. The Tribunal consisted of eleven judges, of whom seven, representing the U.S.A., Great Britain, the U.S.S.R., China, Canada, New Zealand, and the Philippines, delivered a majority judgment, while four, representing India, Holland, France, and Australia, delivered dissenting judgments. All the defendants were found guilty and seven were sentenced to be hanged. On this group of war-trials, Mr. George F. Blewitt writes:

The basic fact of this war-trial is that the victorious powers tried twenty-seven leaders of the defeated nation for violation of *ex post facto* law. Because the charter of the Tribunal was issued by a general of the U.S. Army; because the defendants were in the custody of the U.S. Army; because the Chief of Prosecution was a prominent American; because the costs of the trial were met by funds from the U.S. Treasury; and because the seven found guilty by a majority verdict were hanged by Americans;—for all these reasons—the long-run effects of the trial are likely to be far more damaging to the prestige of the United States than to any other nation represented on the Tribunal.¹

The only really outstanding feature of the Tokyo war-trials was the brilliant dissenting judgment of Mr. Justice Rahabinode

¹ See article, "The Tokyo War Crimes Trial," by George F. Blewitt, in *American Perspective*, Summer 1950.

Pal, the representative of India on the Tribunal, who was says Mr. Blewitt, "the only deep student of international law on the bench." In a 1900-page judgment, Mr. Justice Pal tore in shreds one by one the various charges against the accused. "A mere declaration of intent," he declared, "could not give the Allies any legal right to define war-criminals in a manner which suited their policies at the moment." He held that there was no evidence to show that any of the accused were war-criminals, according to the accepted definition of the term, and declared, regardless of the feelings of his colleagues, that to purport to put on trial and then to hang prisoners of war was in itself a war-crime of peculiar gravity.

Of the war-trials carried out in Europe by the American military authorities, the most noteworthy was the so-called Malmédy trial which was later the subject of an official investigation. German soldiers were accused of murdering Americans, chiefly of the air force, during the Battle of the Bulge in the winter of 1944-1945. Mr. William Henry Chamberlin, in his *America's Second Crusade*, writes:

An Army commission, headed by Mr. Justice Gordon Simpson of the Texas Supreme Court, investigated the complaints of third-degree methods having been employed. Its conclusion was that "highly questionable methods which cannot be condoned" were used in obtaining the "evidence" and "confessions" upon which many death sentences inflicted in the case were based. Judge Edward L. van Roden, a member of the commission, was more specific in his description. He listed among these "highly questionable methods": beatings and brutal kickings, knocking out teeth and breaking jaws; mock trials with impersonation of priests by investigators, solitary confinement on limited rations.²

It should be noted that, at least, the United States was the only state which permitted the doings behind the scenes at its war-trials to be impartially investigated. There is not the least reason to suppose that, if a comparison were possible, American methods would compare unfavorably with those of other countries. On the contrary, the willingness of the American authorities to submit the verdicts of the American military courts to review by a commission composed of eminent American lawyers clearly indicates a desire that justice should be done. Neither the British nor the French Government would entertain for an instant proposals for the investigation of the

² Chamberlin, *op. cit.*, Chicago: Regnery, 1950, p. 331.

doings of their military courts. In Eastern Europe, of course, there would have been nothing for a commission to investigate, since the grossest brutality was publicly flaunted.

British justice has always been greatly and justly admired on the Continent; it has also always been regarded as a little eccentric, particularly in its tenderness toward the rights of accused persons. It is, therefore, not surprising that, when Britain (again to quote Lord Justice Lawrence) "joined with other nations to put to death her enemies in Germany," the war-trial in British hands took a form markedly different from that of any of the varieties of war-trials adopted by her continental allies. It is a noteworthy fact that, four centuries earlier, some restraining influence seems to have prevented the English from throwing themselves into the prosecution of witchcraft with the wholehearted enthusiasm evidenced by their continental neighbors and by their neighbors across the Scotch border. After witchcraft had been made a felony by statute, in 1563, witches and sorcerers were, from time to time, tried and hanged in due process of law, but there were in England no waves of torturing and burning on a wholesale scale. A traveller in Western Europe in the sixteenth century would have found the public burning of a witch or batch of witches everywhere a common spectacle: in France, Bordeaux and Rouen were particularly notorious for these gruesome exhibitions; in Germany, Trier, Bamberg, and Würzburg. Despite the eloquent prompting of their new Scots king, James I, the interest of the English people in the suppression of witchcraft remained tepid: during James' reign of 22 years there were in England only fifty executions for witchcraft, and in thirty of these a mysterious death, quite probably caused by poison, was involved. Contrasted with conditions elsewhere in Europe, this figure indicates comparative sanity: in the diocese of Trier alone, 386 persons were burned in the years 1587 to 1593, and in the small town of Bamberg there were 156 executions between 1627 and 1631.³ It is said that access to the town of Brunswick was for

³ Mr. Montague Summers, in his *Geography of Witchcraft*, New York: Knopf, 1927, gives exact particulars of these 156 victims which included fifteen boys of ages ranging from 10 to 15, two girls aged respectively 10 and 15, and a blind girl whose age is not recorded. The learned author comments, "It is true at a first glance this seems horrible to a degree" but goes on at once to say that it only shows "how deeply gangrened was this unhappy district" and to assert that the Prince-Bishop who ordered these executions was a "humane and pious man." From this, it is clear that those who fear their reputations are at stake in the matter of war-trials have grounds to hope that, in time, even war-trials will find competent defenders.

long impeded by a forest of charred stakes outside the mair gate. Nothing comparable to this ever took place in England.

If it be assumed that this restraining influence persisted in England down to 1945 and that it originated in some part from the English Common Law, it is easy to understand why war-trials conducted by the Anglo-Saxon nations, owing to their common heritage of the English Common Law, should have approximated, in form, at least, judicial trials, in contrast to the war-trials conducted, say, by the Czechs, which were indistinguishable from Soviet mock-trials. Be this as it may, it is at least impossible to believe that any English crowd would have found it either gratifying or edifying to witness some prisoner of war being finished off on a public scaffold after enduring months of insult and bullying beneath glaring arc-lights in court and, probably, no little torture in the cells beneath.

British war-trials deserve special mention not only because they developed along distinct lines but also because in two of them world-famous figures were concerned.

It is not open to dispute that the British public became utterly weary of the Nürnberg war-trials long before their termination. The general apathy which developed on the subject was openly deplored in the press and was denounced in the pulpit. When, at last, the news arrived that the proceedings were over and the prisoners had been hanged, there was a general feeling of relief. The most generally adopted view in Britain seems to have been that an unpleasant but necessary work had finally been accomplished. It was realized that, viewed in the perspective of peace time, the Nürnberg war-trials would be hard to justify, but reliance was placed on the hope that they would be regarded by posterity as an aftermath of war: as everyone knows, many things are done in war which it is hard to justify afterwards. There was almost universal agreement that the sooner the subject was dismissed from mind the better.

In conformity with this change of public opinion, after the close of the Nürnberg proceedings the subject of the trial of prisoners of war by their captors was unobtrusively but firmly withdrawn from the attention of the public. It was known that the Russians, Poles, and Czechs were industriously liquidating the numerous prisoners of war in their hands and that preliminary mock-trials formed part of the proceedings. No

reports, however, of these gruesome doings east of the Iron Curtain were published in the British press. That the same sanguinary results were being achieved west of the Iron Curtain could only be gathered from occasional obscure paragraphs on the back pages of the newspapers. No details were ever given: the reader was merely informed that this general had committed suicide in prison awaiting trial, that admiral had been convicted of an unspecified war-crime, and this diplomatist was appealing against the sentence passed on him. The correspondence columns in the press were closed to discussion on the subject and books thereon were disposed of by the simple expedient of not reviewing them.

The Iron Curtain of Discreet Silence remained unbroken in Britain until May, 1947, when it was casually disclosed in the press that Field Marshal Albert Kesselring, the commander-in-chief of the German forces in Italy, had been sentenced to death by a British military court in Venice for being responsible for the shooting of certain hostages and various Italian partisans and bandits who had been caught operating behind the German lines.

The storm of protests which this unobtrusive announcement aroused seems to have filled the British authorities with genuine surprise. Other generals of equal rank to Field Marshal Kesselring had been quietly liquidated by courts having no more jurisdiction to inquire into their doings than the court which had condemned this particular prisoner of war. Field Marshal Kesselring was unquestionably a general on the defeated side. Why then, it was asked plaintively, should he, contrary to all democratic principles, be treated as an exception? Why should he alone be allowed to enjoy the rights of a prisoner of war?

Certainly no fault can be found in this reasoning. Besides, in this particular case, political considerations entered: it was known that Italian public opinion would be favorably influenced if the German general who had defended Italian soil so long and so gallantly were hanged. The fact was overlooked that many people in Great Britain, both influential and obscure, were extremely proud of the campaign in Italy, a campaign waged by both sides with but few lapses from the highest standards of civilized warfare—apart, of course, from the numerous outrages committed on prisoners and wounded by the Italian partisans and the ruthless reprisals of the German secu-

rity police, similar to those of the Black-and-Tans in Ireland, in 1920. In fact, apart from that one "tragic mistake," the wanton destruction of the Monte Cassino Monastery—the blame for which still remains a subject of dispute between the American, General Mark Clark, and the New Zealander, Lieut.-General Bernard Freyberg—the campaign in Italy was one of which both sides might be relatively proud. It was felt in wide circles in Great Britain that, if Field Marshal Kesselring were hanged, the laurels of his victorious opponents would be irredeemably sullied. It was realized that, in the eyes of posterity, so monstrous an act of barbarism would cast a shadow over the whole Allied campaign in Italy.

As the result of a single official indiscretion there collapsed that Iron Curtain of Discreet Silence behind which Britain's enemies in Germany were being quietly liquidated without too great a strain being placed upon the famed British love of justice and fair play. Lieut-General Sir Oliver Leese, the commander of the Eighth Army, declared in an interview in the press that had it been his fate to have been on the defeated side, the same charges as those brought against Field Marshal Kesselring could have been established against himself. "Kesselring was a very gallant soldier who fought his battles well and squarely," General Leese declared. "With regard to the treatment of prisoners, I think that Kesselring, like Rommel, set a very good example—a far better example than the Italians." In support of this opinion, the General quoted Viscount Alexander as saying, "I think that the warfare in Italy was carried out fairly and, from a soldierly point of view, as well as it could have been done."⁴

These and similar protests were from persons so eminent and influential that it was impossible to dismiss them summarily by neither publishing nor commenting on them. The British authorities had brought this storm on themselves by their own blunder but it must be admitted that they succeeded in extricating themselves from an awkward situation with considerable skill. No attempt was made to justify the trial of the German field marshal; no attempt was made to defend the unfortunate military court at Venice which, after all, had only administered what they were assured was the new law governing the matter before them. The unanswerable denunciations

⁴ See the interview with General Leese, reports by Major Redman in the *Sunday Pictorial*, May 11, 1947.

of Field Marshal Kesselring's trial at Venice applied equally, of course, to war-trials generally, but few of those who denounced this particular war-trial were in the least interested in Kesselring personally, still less in abstract questions of justice. British public opinion had been roused simply because the honor and reputation of the Eighth Army had been made dependent on the saving of Field Marshal Kesselring from the hangman.

The obvious solution of the difficulty was to grant the Field Marshal a reprieve. But an unexpected difficulty then arose. The Field Marshal declined to lodge an appeal. His resolution was only overcome by appeals from brother professionals of the highest rank among his captors not to allow the military profession to be discredited by the carrying out of the sentence. It is not known what assurances were at the same time given him that he would receive honorable treatment if he went to reside in a British military prison or whether, if given, these assurances were carried out. In due course, the British public learned with relief that the Field Marshal had lodged an appeal and had been duly reprieved: it was cheerfully assumed that the faces of the British military authorities would be saved by a short detention as a nominal prisoner. The whole subject was dismissed thankfully from mind, the Iron Curtain of Discreet Silence descended once more, and the work of "putting to death our enemies in Germany" continued, as before. England is a land of many creeds but whatever his creed may be, every Englishman firmly believes that what is not discussed or thought about has no existence: *Quod non apparet non est*.

Nevertheless, it is most remarkable how easily and quickly the Kesselring War-trial was completely dismissed from mind immediately after it was announced that it had been decided not to hang the Field Marshal. There is no doubt that this war-trial was unquestionably one of the most memorable of all that series of war-trials which began after the conclusion of hostilities in 1945. The facts of this case have since attracted little or no attention and remain curiously little known. During the hearing, only brief, disconnected and generally inaccurate details were published in the press. Only when the astonishing verdict was announced was public attention aroused. Four years later, no book giving even an outline of this war-trial had been published so that when in June, 1951, an appeal was made to Field Marshal Viscount Alexander to give his support to an

agitation which had started in Germany to obtain belated justice for his gallant opponent in the campaign in Italy, Viscount Alexander was forced to admit, "I cannot make any statement on Field Marshal Kesselring's court-martial as I don't know the facts." All he could do in response to this appeal was to confirm "what I have already said," namely, "I fought against the Field Marshal for a considerable period, both in North Africa and Italy, and I never had anything to complain of in his conduct of operations. He was a very able opponent and he and his troops fought a perfectly straightforward and fair fight against us."⁵

So much at least is common knowledge to those familiar with the facts of the campaign in Italy. Less well known is the fact that the "pro-Italian sentiment of Kesselring" ("italophile Gesinnung Kesselrings") frequently aroused angry comment at the Führer's headquarters where Kesselring's disposition to forego military advantages rather than bring destruction upon the irreplaceable historical, architectural and artistic treasures of Italy was regarded with little favor by Hitler and his entourage. Thus, thanks to his express orders, Rome was evacuated without resistance, with the consequence that the Allied tanks and mechanized columns were able to sweep through the city, unhampered by ruins and broken bridges, in pursuit of his hard-pressed troops. It must be left to future historians to decide whether General Mark Clark or the jaunty General Bernard Freyberg must bear the chief responsibility for that "tragic mistake, psychologically and militarily," which led to the destruction of the Monte Cassino Monastery, but it is at least certain that Kesselring did all in his power to prevent this "tragic mistake" by refraining from occupying this famous shrine of Christendom with his troops, having previously arranged for the removal of its most precious treasures to a place of safety in the Vatican City.

Posterity will undoubtedly acknowledge a debt of gratitude to Field Marshal Kesselring for the preservation of so much which would otherwise have been destroyed when the allied war chiefs saw fit, as Mr. Churchill cheerfully puts it, "to drag the hot rake of war up the length of the Italian peninsula." Like Hitler and his advisers at German G.H.Q., the Allied

⁵ See the articles "Nicht Gnade sondern Recht" published by *Der Stern*. The issue of August 5, 1951 contains a photostatic copy of Viscount Alexander's letter, dated July 26, 1951, reproduced in the *Daily Express* of August 9, 1951.

military leaders regarded the campaign in Italy from an entirely military point of view. Had not Kesselring been one of the few, who, in the general frenzy then prevailing, retained some sense of proportion, who can doubt that many other "tragic mistakes" would have taken place?⁶ There is one good reason for thinking that, in regard to this subject, even Italian public opinion will change in time. If only ruins could be shown to foreign tourists where Milan Cathedral, St. Peters, and the Uffizi Galleries now stand, the Italian tourist trade would suffer continuing and incalculable loss. Even future generations of Italians may thus be led to recall Kesselring's memory with gratitude.

The facts which led up to this war-trial are not in dispute and make the attitude of the British authorities even more inexplicable. Italy had entered the war, in 1940, with no more justification or excuse than when, in 1916, she had declared war on her ally, Austria. On both occasions, she was undeniably guilty of embarking on a war of aggression, defined by Lord Justice Lawrence as "the supreme international crime." In 1940, as in 1916, her motive was simply to be found among the victors at the end of the war. In 1916, her guess as to which side would be victorious proved right and she was rewarded by being permitted to annex the Austrian Tyrol; in 1940, her guess proved wrong and, with a naïveté not lacking a certain charm, Italy then set about doing her best to change sides. Unfortunately, large forces of German troops had already entered Italy as allies, at the invitation and request of the Italian Government. This circumstance was, however, turned to account since it provided an opportunity to demonstrate by acts of violence to the men who had recently been allies and who had now become unwelcome guests, that Italy had changed, or desired to change, sides.

The spectacle of German troops defending Italian soil from invasion, a task from which he and the Italian Army had ingloriously retired, seems to have filled Marshal Badoglio with violent emotions, among which was possibly shame. At all events, from the security of Brindisi, this Italian "warrior" occupied himself sending forth wireless appeals to the Italian

⁶ It was no doubt in contemplation of further "tragic mistakes" being perpetrated that the Bishop of Monmouth justified the destruction of the Monte Cassino on the ground that "Jesus Christ came to save souls and not to preserve the Temple of Jerusalem." This is perhaps, the most perfect example of a *non sequitur* in the English language!

civilian population, calling upon them to murder every German within reach whenever possible and without mercy. When the probability that Germany would ultimately be defeated became a certainty, the response to these appeals, at first timid, rapidly gathered strength, although less, apparently, among Badoglio's own fascist supporters than among his bitter political opponents, the Italian Communists. Thousands of German soldiers were stabbed or shot in the back, bombed or blown up by landmines. All the time-honored practices of the Spanish guerillas in their campaign against Napoleon's armies were adopted by the Italian partisans, together with such innovations as the construction of grim booby-traps consisting of the severed heads of slaughtered prisoners fixed on stakes in such a way that if touched a hidden landmine would be exploded. The German regular forces reacted to this campaign in precisely the same way as regular forces in the past had reacted when subjected to similar attacks by a civilian population. As in Spain during the Peninsula War and in Ireland during "the Troubles" of 1920, the troops frequently got out of hand. In modern terminology, "saw red," and savage reprisals unquestionably took place. At the same time, the German authorities carried out official reprisals: hostages were taken and, after each outrage, a number were shot.

The charges against Field Marshal Kesselring may be divided into two parts. First, he was accused of supporting drastic measures by his subordinates, and against him was quoted a general order issued by him authorizing local commanders to take such measures as, at their discretion, they might consider necessary to protect the lives of their men. Secondly—and this seems to have been the main charge against him—he was accused of approving an order from Hitler himself that, following the explosion of a landmine in the Via Rasella in Rome, by which 32 German soldiers were killed and 68 wounded, besides ten Italian civilians killed, including six children, a number of Italian hostages, held in custody as supporters of Badoglio, should be shot in the ratio of ten for every soldier murdered.

Had the court which tried Kesselring been composed of civilians, it would be easy to understand why it should appear outrageous in any circumstances that an innocent person should be executed for the crime of another. But the court was composed of experienced soldiers and the execution of hostages is

unanimously upheld by the military authorities of all civilized countries as a coercive measure. Articles 453 and 454 of the British Manual of Military Law are explicit on the subject. Article 454 explains that "the coercive force of reprisals arises from the fact that in most cases they inflict suffering on innocent individuals." Article 358 of the American Military Manual also authorizes the execution of hostages as a necessary measure to safeguard the lives of combatant forces. As it may be thought that Kesselring was condemned because the tribunal considered the ratio of 10 to 1 excessive, it becomes necessary to state that, when the French occupied Stuttgart in April, 1945, it was announced that hostages would be shot in the ratio of 25 to 1 for every French soldier murdered by the German civilian population; and that, when the Americans entered the Harz district, execution was threatened in the ratio of 200 to 1 for every American soldier murdered.

The reason why it was considered so desirable to hush up the facts of this war-trial are sufficiently obvious. The verdict was quite indefensible. The reason why it was possible to keep the facts from the public so long is also open to a very simple explanation. At his war-trial at Manila in the previous year, General Tomoyuki Yamashita was provided with a team of American lawyers who not only ably defended him but carried his appeal to the Supreme Court of the United States. While they failed to save his life, one of his lawyers, Mr. A. Frank Reel, cleared his memory by writing a classic study of the case in which the full facts are set forth.⁷ Similarly, two years later, Field Marshal Fritz Erich von Manstein was provided with English counsel to defend him at his trial at Hamburg in 1949: to their efforts he owed his life, and one of them, Mr. R. T. Paget, has since written an account of the proceedings which leaves in no doubt the grounds upon which, and the methods by which, a conviction was obtained.⁸

Field Marshal Kesselring, in contrast, was denied the services of English lawyers to defend him before the English military court instructed to try him. He was forced to rely on German lawyers quite unfamiliar with English legal conceptions and English legal procedure. As citizens of a defeated state, his defenders were not free, like Mr. Reel and Mr. Paget,

⁷ A. Frank Reel, *The Case of General Yamashita*, Chicago: University of Chicago Press, 1949.

⁸ R. T. Paget, *Manstein*, London: Collins, 1951.

to carry on the struggle for justice after their professional services were completed. Victimization for what the occupying authorities might consider excessive zeal was an ever present possibility. It is, of course, a characteristic of all war-trials that, usually, only those concerned with the defense show any disposition to dwell afterwards on the facts. In the Kesselring war-trial, those concerned with the defense lacked the means to make known the facts, at least to the world outside Germany; and those concerned otherwise than with the defense have ever since rigidly preserved a prudent silence.

From one point of view, in particular, the Kesselring war-trial is far more remarkable than the Nürnberg war-trial. The tribunal which purported to adjudicate at Nürnberg was composed of lawyers sitting only six months after the termination of hostilities. Inevitably, their minds were still under the influence of wartime passions and, if they erred deplorably in the case of Admiral Raeder, it can at least be said they meted out a sort of rough justice to some of the accused. As lawyers, they had no reason for feeling any particular understanding or sympathy for sailors like Admiral Raeder or Admiral Dönitz, or for soldiers like Field Marshal Keitel or General Jodl.

On the other hand, the military court at Venice which purported to try Field Marshal Kesselring, was composed of soldiers of standing and repute, sitting two years after the conclusion of hostilities. They had before them a brother professional, not only a soldier of the highest rank but the hero of one of the greatest fighting retreats in military annals. At any other period of history, the minds of such a body would have been dominated by sympathy for a commander who, faced by an enemy superior in numbers, vastly superior in equipment, and enjoying undisputed command of the sea and air, had maintained an unbroken resistance, step by step, from the southern shores of Sicily to the foothills of the Alps, until his gallant troops, deprived of air support by lack of gasoline and hampered at first by cowardly and later by treacherous allies, were engulfed, still undefeated, in the general ruin.

What is so particularly remarkable is that the charge against Field Marshal Kesselring was the one least likely to appeal to military minds—the charge that he had adopted severe methods to protect his hard-pressed troops from treacherous attacks from the rear by gangs of armed civilians. Most of the members of

the Court were aware from personal observation of the nature and methods of the Italian underground movement against which Kesselring had had to contend. In similar circumstances, they themselves would have adopted similar measures—measures which were, in fact, adopted without hesitation by the Americans six years later in the campaign in Korea, in 1950, when their lines of communication were being raided by Communist irregulars.

Very different had been the reaction of British officers in the past when the same circumstances had arisen. Thus, for example, Professor Charles W. C. Oman, in his *Peninsular War*, complains that, as a consequence of having witnessed the atrocities of the Spanish guerillas, many of Wellington's officers developed a distinctly pro-French bias. In particular, he complains that one of Wellington's officers, Sir William Napier, in his military classic, *War in the Peninsula*, became so biased that he was "over-hard on the Spaniards and over-lenient to Bonaparte...he invariably exaggerates Spanish defeats and minimizes Spanish successes."⁹

There was nothing exceptional or unique in the situation which led to Field Marshal Kesselring finding himself at the disposal of the foreign enemies occupying his country. Thus, France, in 1814, was as completely at the mercy of her conquerors as was Germany, in 1945, and most of the French generals had, at one time or another, faced the task of coping with the Spanish guerillas during the Peninsular War. But, although he had been much assisted in his operations by their activities, the Duke of Wellington felt himself under no obligation to avenge the execution of the assassins and saboteurs who had occupied themselves behind the French lines sniping isolated detachments, stabbing sentries, torturing prisoners, and mutilating the wounded. On the contrary, we hear of him, only two years after the termination of hostilities, when commander-in-chief of the army of occupation in France, paying Marshal Masséna a friendly visit at the house of another "war-criminal," Marshal Soult, and exchanging with him reminiscences of the campaign in Spain. The idea that either of these famous soldiers ought to be put on trial for their handling of the Spanish "underground movement" apparently never entered Wellington's mind. Even Marshal Suchet, who had particu-

larly distinguished himself by the energy¹⁰ by which he had repressed the gangs of Spanish civilians which had harried his troops in Aragon, was permitted to end his days in honorable retirement in Paris without molestation by the foreign occupiers of his country.

Perhaps the most fitting concluding observation on the subject is that, although Field Marshal Kesselring was unfortunate not to have lived in earlier and more civilized times, he was, on the other hand, fortunate to have lived before the reversion to barbarism had proceeded so far that it had become a universal rule that (to quote Field Marshal Montgomery): "after a war, generals on the defeated side are tried and hanged."

Once Field Marshal Kesselring had disappeared into a British military prison, the Iron Curtain of Discreet Silence descended on the subject of war-trials. All over Europe, war-trials, of course, continued, but only rare, brief and disconnected reports of them appeared in the British press. Politicians, editors, and reviewers were agreed that the subject was one best not discussed or even thought about. No recognized authority on international law seemed inclined to undertake the task of justifying war-trials: it was impossible to stop them, since they were being carried out by international agreement; it was unpatriotic to denounce them; and there was no interest in recording their details since, whatever these might be, the same inevitable result was invariably reached.

It appears that the British authorities innocently mistook the ignorance of the British public of what was taking place for wholehearted approval. In the summer of 1948, it was casually announced that three famous generals, Field Marshal Gerd von Rundstedt, Field Marshal Fritz Erich von Manstein, and Colonel-General Strauss, who had spent the previous three years in honorable captivity in England as prisoners of war, were to be sent back to Germany in order to stand their trial as war-criminals.

A storm of protests at once broke forth, far exceeding the outcry which had arisen over the condemnation of Field Marshal Kesselring. What was the reason, it was asked, for bringing these belated charges? "If these men were guilty of war-

¹⁰ The soldier, Sir William Napier, refers to Suchet's methods as "vigorous and prudent measures" while the civilian, Professor Oman, refers to them as "a series of atrocities." *Quot homines, tot sententiae!*

⁹ *The Peninsular War*, Oxford: Oxford University Press, 1902-1922, Volume I, p. XI.

crimes," wrote Professor Gilbert Murray to the *Times*, "they should have been promptly accused and punished. Nothing can justify keeping these men in prison for three years without a trial."

The Government had no reply to make to this question and the controversy in the columns of the press and the debates in Parliament were entirely one-sided. In vain, the Lord Chancellor, Lord Jowitt, reiterated that he was satisfied in the depths of his heart that the prisoners had a case to answer and that the trials really should take place. The storm continued. At last, on May 5, 1949, Lord Jowitt announced that the charges against Field Marshal von Rundstedt and Colonel-General Strauss were to be dropped. But the case against Field Marshal von Manstein must, he insisted, proceed. "The whole matter for the last six months has been a source of great worry to me," Lord Jowitt declared plaintively.

The solution decided on to put an end to Lord Jowitt's six months of worry can only be regarded as most unfortunate from any point of view. Of the three distinguished soldiers threatened with prosecution as war-criminals, only Field Marshal von Rundstedt, the hero of the famous winter-battle of the Ardennes, at the end of 1944, was generally known to the British public. The names of his two comrades, if known at all, were unassociated with any particular event. The reason officially given for the decision not to put him and Colonel-General Strauss on trial was their advanced years and declining health. An excellent reason in both cases, no doubt. But it was a reason that applied equally well in the case of Field Marshal von Manstein who was also elderly and in bad health: he had always been delicate and was now threatened by blindness. The age of all three men was in the neighborhood of seventy.

So unconvincing an official explanation inevitably invited speculation as to the true reason. Inquiry showed that, although Manstein had spent the last four years of the War on the Eastern Front, he had taken a leading part in the Campaign of France, in 1940, and to his brilliant strategy was generally ascribed the great breakthrough near Sedan on May 13th, which led in a few weeks to the withdrawal of the B.E.F. from Dunkirk and the capitulation of France at Compiègne. In his book, *The Other Side of the Hill*, Captain Liddell Hart writes:

The ablest of all the German generals was probably Field Marshal von Manstein. That was the verdict of most of those with whom I discussed the war, from Rundstedt downwards. He had a superb strategic sense and a great understanding of mechanized warfare. . . . From him came the brain-wave that produced the defeat of France—the idea of a tank-thrust through the Ardennes.¹¹

A triumph so swift, so complete and, above all, so unexpected must inevitably have produced widespread psychological reactions. When, on May 10, 1940, two million German troops began the long-awaited attack on the Western Front defended by some three and a quarter million men, confidence reigned supreme that this attack would be victoriously repulsed. No other result indeed seemed possible. On the one side were hurriedly trained German conscripts, many of whom were believed to hope for defeat as the only means of bringing about the downfall of Hitler's régime which they were supposed to hate. Their organization had been hastily improvised; owing to shortage of raw material, their equipment was of poor quality and they were outnumbered by three to two. On the other side were the famous Maginot Line, constructed at such vast cost and considered by the experts as impregnable; the French Army, the same instrument which Marshal Foch had led to victory twenty years before, re-equipped and reorganized in accordance with the lessons of the 1914-1918 War; and the B.E.F., made up of 350,000 long-service soldiers, the best trained and equipped army that Great Britain had ever dispatched to fight in a European war. Under such circumstances, it is not surprising that few paid attention to the poet Rudyard Kipling's warning against indulging in "frantic boast and foolish word." Thus on April 5, 1940, in the apparent security of British G.H.Q. General Sir Edmund Ironside, Chief of the Imperial General Staff, "with the full consent of Mr. Oliver Stanley, the War Minister," gave the following "frank interview on the war," proudly described as being "one of the most outspoken statements ever made by a British military leader in wartime." As reported in the *Daily Mail* the following day, the gallant general said:

Hitler has "missed the bus" in not attacking us during the last seven months. We have turned the corner. Having seen the British Army over in France, what we have got in this country, and also the French Army, I feel that everything is going on well.

¹¹ Capt. Liddell Hart, *The Other Side of the Hill*, London: Cassell, 1948, pp. 70-71.

The spirit of the young men is something that has to be seen to be believed. As an actual fact there is no officer in the German Army opposed to us who served in the last war above the rank of captain. We have generals and colonels galore, and so have the French Army—men still in the pink of condition—who commanded in the last war and know what it means.

I know most of the German commanders personally. I should say that these men are now feeling very *exercised* about what they should do if the order was given to "go."

In this country today there is no doubt about the reasons for which we are fighting. There is a great silence in Germany. German propaganda is full of lies and this must be bad for morale.

It seems to me that one reason why the German troops are kept in position at the front is that they can be much better controlled there.¹²

Within less than two months of this speech—a verbose and authentic variation of Kaiser Wilhelm's entirely fictional reference, in 1914, to Sir John French's "contemptible little army"—the B.E.F. was embarking at Dunkirk in order to return to Britain. It was leaving behind it all its guns to the number of 2,300; 120,000 vehicles, including all its tanks, armored cars and lorries; and all its equipment, ammunition and stores. That the bulk of the troops succeeded in escaping at all was due entirely to Hitler's delusion that the dark menace of Asia overshadowing Europe would induce Great Britain to come to an understanding with Germany in joint self-protection. Few members of the B.E.F. returned to England with more than the clothes which they were wearing.

Anyone but a British Foreign Office official would have foreseen that the decision to single out as a war-criminal the general to whom, it is agreed, was due the credit for this amazing triumph, was bound to give rise to regrettable misconstruction. In this speech, General Ironside was only expressing views universally held at the time in the highest military and political circles. We are assured he spoke "with the full consent of Mr. Oliver Stanley, the War Minister." Sudden realization of the truth must have come as a terrific shock. Resentment at the time must have been widespread in political circles. Inevitably, the trial at Hamburg, in 1949, of Field Marshal von Manstein came to be widely regarded as retribution for those achievements of his, in 1940, which have secured for him a sure place in world history.

It is quite certain that the true explanation of the per-

¹² *The Daily Mail*, April 6, 1940.

sistence with which the demand for the trial of Field Marshal von Manstein was pressed is that, if he had been released, it might have been difficult to resist a demand by the Soviet Union for his surrender as a war criminal, in view of the reciprocal undertakings exchanged in 1945. In accordance with these undertakings, a number of prisoners of war had, in fact, been handed over to the tender mercies of the Poles, Greeks, and Serbs. But, in default of a reasonable explanation or, better, of an explanation which could be frankly stated, it was inevitable that untrue and unjust explanations should have been suggested in foreign quarters critical of Great Britain.

Neither the danger of misrepresentation nor any other objection succeeded in shaking for an instant the iron determination of the British Government to proceed unflinchingly with this belated war-trial, an iron determination all the more remarkable since determination of any kind had been conspicuously absent from British foreign policy in regard to every other matter since the War. Hope of appeasing Russian hostility having long since been abandoned, there was no object or advantage to be gained by the trial: public opinion in Great Britain was quite indifferent; a small but influential minority was extremely outspoken in opposition; and those who desired to hear that another German general had been hanged considered it the best policy to remain silent in the hope that the outcry would die down if left unopposed. As a result, the debates in Parliament on the matter were entirely one-sided, but the order to the army authorities to proceed with the trial remained unrevoked.

But, although the opposition aroused by the decision to put Field Marshal von Manstein on trial as a war-criminal failed utterly to shake the resolve of the British Government, it led to other important results. It was strongly urged that, if this war-trial must take place, it should at least be conducted with fairness. The Field Marshal's trial would take place before an English military court and, therefore, he ought to be represented by English counsel. Possibly, because the effects of such an innovation were not at first realized, this proposal was not openly opposed. Probably, reliance was placed on the fact that the Field Marshal was practically penniless, since all his property was situated in the eastern provinces of Germany annexed by Poland and had been summarily confiscated. In order to deprive him of legal assistance therefore, it only appeared

necessary for the British authorities to refuse him adequate funds to pay for his defense. The Bar Council did not even trouble to repeat the ruling which it had given before the Nürnberg war-trials that it was "undesirable" that a member of the English Bar should appear for the defense. It remained, therefore, possible to contend that the accused was completely free to employ any lawyer, English or German, whom he pleased. The fact that he had been robbed of all his money by the allies of Great Britain and, consequently, could not pay for legal aid was plainly no concern of the British Government.

It had, however, been wrongly assumed that the Field Marshal's sympathizers would be content with protesting. The necessary funds to pay for his defense, amounting to some £2,000, were quickly raised by public subscription. The British authorities would, no doubt, have foiled this move by prohibiting the export of British currency for such a purpose but for the fact that one of the subscribers to the fund was no other than Mr. Winston Churchill. After six months worry, Lord Jowitt was in no mood to bring down on himself the formidable wrath of Mr. Churchill. The opposition ignominiously collapsed. Mr. R.T. Paget, K.C., M.P., generously offered his services without a fee. His junior associate was Mr. S. C. Silkin, the son of the then Minister of Town & Country Planning. It happened that Mr. Silkin was a Jew and the zeal and industry which he displayed for his client did much to counteract the opinion widely held, not only in, but outside, Germany that, in essence, a war-trial was only a method adopted by Jewry to obtain revenge for the persecution which it had suffered under the Nazi regime.

Field Marshal von Manstein was formally charged on January 1, 1949, the farce of confiscating his uniform having been solemnly enacted whereby he was deemed to have become a civilian. The trial commenced in Hamburg on August 22, 1949, and dragged on until December 19th following.

It would be outside the scope of this book to examine the details of the trial of Field Marshal von Manstein. The only real issue in the case is, however, so simple that it can be explained in a few words. The Field Marshal was in command of the army group on the southern wing of the Eastern Front. Facing him were the Russian armies with a numerical superiority of never less than four to one. Behind his lines raged a ceaseless and furious struggle between the German security forces and the Communist commandos in which the unfortu-

nate civilian population, willingly or unwillingly, joined. This struggle had commenced on the first day that the German armies crossed the Russian frontier when Stalin announced that the war "was not only a war between two armies but at the same time a war of the entire Soviet people against the Fascist German troops." According to Russian official reports, in the Crimea alone, 18,910 German soldiers were killed by the partisan bands, 64 troop trains were blown up, and 1621 lorries destroyed. Prisoners and wounded were murdered, generally after mutilation; horrifying deeds took place whenever a German hospital was seized by the guerillas.

As previously explained, the essential characteristic of civilized warfare is the drawing of a distinction between the enemy combatant forces and the enemy civilian population. But, in the fighting on the Eastern Front, no such distinction could be drawn: any Russian civilian who maintained his civilian status was liable to be executed by his own countrymen as a traitor. The task of combatting this campaign of terror behind the German lines fell mainly on units of the S.D., the intelligence branch of the *Geheime Staatspolizei*, otherwise known as the Gestapo. These units operated quite independently of the army. They were not subject to military discipline. Their orders came direct from Hitler via Heinrich Himmler, the chief of the *Schutzstaffel*, (the S.S.), the Gestapo, and the S.D. There is no question that their orders were to combat terror by terror: there is no reason to think that they did not do their utmost to obey their orders.

In a nutshell, the charge against the Field Marshal was that he knew or should have known what was taking place. There is no question that horrible atrocities were committed by both sides in the struggle. Under the ruling laid down in the London Agreement the atrocities committed by the German security forces counted as "war-crimes," since they were committed "in the interest of the Axis countries." On the other hand, the atrocities committed by the partisans were not "war-crimes," since the perpetrators ultimately found themselves on the winning side. The Communist atrocities, therefore, need be no concern of the Field Marshal since they were not technically "war-crimes," but he should have been concerned with the atrocities of the German security forces, since these were "war-crimes" committed by the ultimately losing side in an area of which he was in military command although, admittedly, he

had no authority or power to prevent them. It was contended, further, that the Field Marshal should have been able to foresee the retrospective law which, some three years later, the victors would become minded to lay down and he should, therefore, have complied strictly with its requirements.

At a first glance, a charge of this nature seems so fantastic that it may appear strange that it was taken seriously by anyone. It must be remembered, however, that General Tomoyuki Yamashita, the most famous of the Japanese war leaders, had been tried and hanged three years before by the Americans on virtually the same charge. A brief digression is here necessary to show the gravity of the charge being brought against Field Marshal von Manstein.

In 1942, General Yamashita was the commander of the 25th Japanese Army in the brilliant Malayan Campaign which culminated on February 15, 1942, with the capture of the supposedly impregnable fortress of Singapore, the greatest triumph of Asiatics over Europeans since the Mongol, Batu, had overwhelmed the chivalry of Christendom on the field of Liegnitz, in 1242. No wonder that, shortly afterwards, Mr. Churchill urged the Commons that an inquiry was undesirable as to the reason why 30,000 Japanese had been able to compel three times their number of Europeans to surrender. Later, it was Yamashita's hard fate to be sent to command in the Philippines when the power of Japan was already crumbling. Towards the end of the campaign, he became completely cut off from many units of his widely scattered forces, by some of whom horrible atrocities were unquestionably committed. After he had surrendered as a prisoner of war, on the orders of the Emperor, he was charged with "having failed to control the operations of the members of his command." No positive act on his part was alleged against him, much less proved. On appeal from the verdict of the military court, Mr. Justice Murphy, of the American Supreme Court, in his brilliant dissenting judgment declared that the charge against General Yamashita amounted to this:

We, the victorious American forces, have done everything possible to destroy and disorganize your lines of communication, your effective control of your personnel, your ability to wage war. We have defeated and crushed your forces. And now we charge and condemn you for having been inefficient in maintaining control of your troops. Many terrible atrocities were committed by your dis-

organized troops. Because these atrocities were so widespread we will not bother to charge or prove that you committed, ordered or condoned any of them. We will assume that they must have resulted from your inefficiency and negligence as a commander. We will judge the discharge of your duties by the disorganization which we ourselves created. Our standards of judgment are whatever we wish to make them.

But this is only an extract from a dissenting judgment. On February 23, 1946, General Yamashita was hanged—a regrettable blot on the otherwise distinguished military career of General Douglas MacArthur. Needless to say, he met his fate with stoical courage and dignity.

In passing it may be observed how often it happens that the only person who comes through a war-trial with credit is the accused, the other participants, so often in fact most worthy people, presenting themselves as bullies, hypocrites, or well-intentioned muddle-heads providing the paving for a future hell.

Obviously, if the case of General Yamashita can be said to have established any legal principle, it is a principle of the widest application. According to it, for example, the Postmaster General should be sent to prison every time a postman in any part of the country is proved to have stolen a letter. Of course, in a judicial trial, the doctrine of unlimited criminal responsibility would be dismissed as an absurdity, but Field Marshall von Manstein was threatened with a war-trial. On the precedent set by the Yamashita war-trial, it might well be held that he had "failed to control" the doings of Hitler's political police since clearly he had no means of controlling them.

The subsequent course of events justified these apprehensions. Had the case been heard three or four years earlier it is quite likely it would have ended in exactly the same way as the war-trial of General Yamashita. Again to quote the dissenting judgment of Mr. Justice Murphy: "Yamashita was rushed to trial under an improper charge, given insufficient time to prepare an adequate defense, deprived of the benefits of some of the most elementary rules of evidence and summarily sentenced to be hanged." At least it can be said, in the case of Manstein, there was no unseemly haste in bringing him to trial: it was not until after an honorable captivity for over three years as a prisoner of war that the farce of confiscating

his uniform took place, whereby he was deemed to have ceased to be a soldier and to have become a civilian. Opposition to the proceedings, although it failed to shake the resolve of the British Government to bring him to trial, yet served to bring about further delay, so that the proceedings did not commence until August, 1949. Like Yamashita, Manstein was to find himself deprived of "the benefits of the most elementary rules of evidence," but, unlike Yamashita, he was given "sufficient time to prepare an adequate (some may think an irrefutable) defense," and he was not, like Yamashita and Field Marshal Kesselring, "summarily sentenced to be hanged."

For two years, Mr. A. Frank Reel's brilliant work, *The Case of General Yamashita*, stood alone as the only classic study of a war-trial.¹³ Beside it can now be placed Mr. R. T. Paget's *Manstein*. Both trials are thus subjects of outstanding books in which the facts and issues of each are tersely summarized and explained. It is needless to summarize them further. But the case of Field Marshal von Manstein demands further mention here as the first war-trial in which the defense was not restricted to disproving the charges made. Not only was the conduct of the prosecution attacked, but attention was drawn to the crimes and breaches of international law committed by the victors. The latter departure from established precedent was of course revolutionary. The London Agreement directed (by Article 18) that "strict measures should be taken to rule out irrelevant issues," and, at Nürnberg, it had been held that any mention of the doings of the victors at a war-trial must *per se* be irrelevant, since the sole object of a war-trial was to punish war-crimes, defined as acts, committed by the vanquished in a war, which, in the opinion of the victors, were war-crimes. From this, it had been rigidly maintained that it must be irrelevant for the accused at a war-trial to prove that the act of which he was charged had been committed by the victors, since if it had been committed by them, it could not, as so defined, amount to a war-crime.

The Manstein trial merits special attention here as the final product of four years of experiment with law and practice in this novel area of jurisprudence. In 1945, war-trial tribunals had nothing to guide them except a declaration of an *ex post*

¹³ The hostility to truth and reason in the Yamashita case is well illustrated by the extended smear of the masterly Reel volume by John H. E. Fried in the *Political Science Quarterly*, September, 1950, pp. 446ff.

facto law constructed to fit the conduct of those it had previously been decided to put on trial; by 1949, a sort of accepted routine had been established, based on precedents set by earlier war-trials. The Manstein trial may be regarded as a model war-trial carried out as fairly as is possible when the captors of a prisoner of war undertake to try their own charges against him.

In the Manstein trial, the prosecution and defense, for the first time in a war-trial, met on comparatively equal terms. The objections to a war-trial in any form are so obvious and seemingly so unanswerable that curiosity was early aroused as to how these objections could be met and refuted. Until the Manstein trial, this curiosity remained unsatisfied except for the select few who participated in these proceedings. Rarely, it seems, was there serious argument, and anyway the arguments employed were never reported in the press. It was not until the trial of Field Marshal von Manstein began at Hamburg in August, 1949, that it became generally known what the arguments were upon which the prosecution relied.

One of the questions, which for so long puzzled the general public, is clearly put in the following letter published in *The Solicitor* of July, 1949:

With the trial of Field Marshal von Manstein now fixed finally for August, is it not surely time for some recognized authority on jurisprudence to formulate the legal doctrine or principle by which some British officers who happen at the moment to be stationed in Western Germany acquire jurisdiction to adjudicate on charges made against a foreign officer for acts alleged to have been done by him nearly ten years ago on the territory of another foreign Power when he was subject to the law of his own country?

If any such doctrine or principle exists, it should be possible for an expert to formulate it.

But if none such exists, the proceedings must *ab initio* be nothing more than a solemn variety of lynch law.

The present would be a most timely moment for the solution of this problem by one of your learned contributors.

It is a very remarkable fact that, although at the time this letter was published war-trials before British military courts had been going on for over four years, no authority on jurisprudence or learned contributor to the *Solicitor* felt competent to supply the answer. Yet the answer is, in fact, a very simple one. These British officers who happened at the time to be stationed in Germany were empowered to try this German general for alleged offenses, committed by him in Russia ten years

before, by a Royal Warrant dated June 18, 1945, which directed that prisoners of war in British hands charged with war-crimes, defined as "violations of the laws and usages of war," should be tried by British military courts.

For four years, every war-trial before a British military court had begun with a formal challenge of the jurisdiction of the court which the prosecution immediately brushed aside by a brief reference to the terms of the Royal Warrant. Rarely, it seems, was the point seriously argued. The lawyers for the defense were foreigners, themselves liable to be sent to a concentration camp if they displayed inconvenient zeal, and the challenge was made by them *pro forma* and generally argued through an interpreter or in halting English. Because, in every case, the trials proceeded, the British public assumed this challenge to the jurisdiction had been adequately refuted.

How baseless was this assumption only became apparent, at least to the British public, at the trial of Field Marshal von Manstein. On the first day of the trial, Mr. Paget challenged the jurisdiction of the court to sit in judgment on his client. The accused, he pointed out, was a prisoner of war. A state of war still existed between Great Britain and Germany. Prisoner of war status is the right of the prisoner; it does not depend in any way upon the discretion of the captor. The Geneva Convention, to which of course Great Britain and all civilized states were parties, reaffirmed and laid down the long established principle that a state detaining prisoners of war must deal with them in accordance with its own laws and regulations in respect of its own armed forces. Among the rights of a prisoner of war was the right to a fair trial. A fair trial is what a captor himself considers a fair trial for his own personnel. The prosecution was relying on the terms of the Royal Warrant of June 18, 1945. But this document deprived the accused of many important rights which he would have enjoyed under British military law. In particular, he was deprived of the right to be tried by officers of rank equal to his own; the right to demand a precise statement of the offenses with which he was charged; and the right to claim the protection of the rules of evidence, that is to say, he was not to be convicted on hearsay evidence. Finally, Mr. Paget appealed to the court not to be overawed by the fact that the document of June 18, 1945, was labelled a Royal Warrant. In 1916, the House of Lords, in the famous *Zamora* case, had held that the seizure of a ship

under a Royal Warrant was illegal because the seizure in that case was contrary to international law. The Royal Warrant was nothing but a government order. Responsibility for its terms rested on the government: as a constitutional monarch the King signed Royal Warrants on the advice of his Ministers.

Exceptional interest attaches to the reply of Sir Arthur Comyns Carr, K.C., leading counsel for the prosecution. He began by declaring that he had listened to Mr. Paget's submission "with considerable astonishment." It went, he declared, to the root of this trial, a circumstance which he seemed to think was in itself an objection against it. Rather naïvely, he pointed out that it had become the practice of war-crime tribunals to reject this submission: it had in fact always been rejected. He paid a tribute to the majority judgment of the American Supreme Court in the *Yamashita* case which sent that gallant soldier to his death. He argued that the right to a fair trial given to a prisoner of war by the Geneva Convention only applied to offenses committed by the accused after he became a prisoner of war. In any event, the Field Marshal was no longer a prisoner of war since the British Government had seen fit to discharge him from the German Army. Perhaps, it might seem that much time and trouble had been wasted at Geneva in defining the rights and privileges of a prisoner of war if a prisoner only remained a prisoner of war at the discretion of his captors. The fact remained that if his captors decided to make a prisoner of war a civilian, they could then do as they pleased with him. Sir Arthur said he had listened with regret to a King's Counsel speaking slightly of a Royal Warrant. This document has not been designed to prevent the accused from having a fair trial. It was perfectly right and proper that hearsay evidence should be admissible before a war-trial tribunal because war-crimes are "of such magnitude that it would be impossible to apply to the proof of them the rules by which we are bound in a small case."

It would be interesting to know what impression, if any, the latter argument made on the members of the Court. Even to Sir Arthur himself it must have sounded weak. If sound, it would logically follow "that evidence that would justify a conviction for murder might be insufficient to support a conviction for riding a bicycle at night without a lamp."¹⁴

¹⁴ R. T. Paget, *Manstein*, p. 81.

Mr. Paget admits, however, that he had little hope that the court would uphold his submission. It was, of course, rejected. To have decided otherwise would have been a reflection on every war-crime tribunal which had adjudicated for the previous four years. The court would have dissolved itself; the prisoner would have left the dock and gone home; and the gallant officers assembled on the Bench would have returned to their military duties. Was it to reach so rapid and lame a conclusion that Lord Chancellor Jowitt had endured six months' worry? It would have needed the combined strength of will of a tribunal composed of super-men to have reached so startling a conclusion. And the tribunal before which the Field Marshal had been brought was not composed of super-men. It was composed of one Lieutenant-General, one Major General, two Brigadiers, and three Colonels.

The composition of the court which decided that it possessed jurisdiction to try him was one of the three main disabilities imposed on the Field Marshal by the terms of the Royal Warrant. Under international law, as confirmed and laid down by the Geneva Convention, he was entitled to be tried by court-martial in accordance with British military law by officers of his own rank. All the officers appointed to try him under the Royal Warrant were of very inferior rank. This was a serious disability, since not one of them had held an independent command of an army or group of armies and, therefore, had no experience with the difficulties with which he had been compelled to cope.

The second disability deliberately inflicted on the accused was that, in accordance with the Royal Warrant, he was denied any precise statement of the charges he would face when the trial began. The result is described by Mr. Paget as follows:

When it came to the trial, the charges against von Manstein were 17 in number. They were summarized by a reporter who said that the prosecution had collected everything that occurred in the Eastern war and thrown it at von Manstein's head.

What the prosecution appeared to have done was to list every incident which might contravene any law or usage of war and which had occurred in any area in which von Manstein had served. As this covered huge areas over a period of 4½ years of particularly ruthless war, the prosecution were able to list some hundreds of incidents. These incidents, or particulars as they were called, were then divided into 17 groups, and before each group some order or orders generally issued by the high command were referred to, and

the allegation made that the particulars were the result of the orders. Then in front of the orders appeared a statement in varied terms, but to the general effect that von Manstein was responsible for the results of the orders, and finally, at the commencement of each charge appeared the words "contrary to the laws and usages of war."

What von Manstein was actually supposed to have done and what law or customs was alleged to have been contravened, was left quite vague. The result was an enormous document which took well over two hours to read in court.

We asked for detailed explanations of what the charges meant, and submitted to the prosecution some 20 foolscap pages of questions. These questions the prosecution refused to answer. When we objected to the charges in court, the reply of the prosecution was that at Nuremberg and Tokyo the charges had been vaguer still! The real answer was that the Royal Warrant gave to the accused no right to know what charges were brought against him, and we had to be content with whatever the prosecution gave us.¹⁵

The third disability was even more grave. By the express terms of the Royal Warrant, the accused was deprived of the protection of the rules of evidence. At a more famous and equally unsatisfactory trial, two thousand years ago, the high priest, Caiaphas, was in a position to exclaim, "Answerest thou nothing? What is it which these witnesses witness against thee?" But, apart from one witness so unsatisfactory that his evidence was withdrawn by the prosecution with the consent of the court, not a single witness testified anything against Field Marshal von Manstein. So far as the prosecution was concerned, the court house need not have been provided with a witness box. Reliance was placed entirely upon some 800 documents which took twenty days to read to the court. They were accepted *en bloc* by the court at their face value without proof of authenticity, authorship, or issue.

The defense strove vainly to insist that, when oral evidence was readily available to support a charge, an affidavit should not be accepted. In particular, Comyns Carr blandly produced three statements incriminating the Field Marshal, purporting to have been made by three S.S. officers who had been sentenced to death by the American authorities. These three men were still alive, but the American authorities refused to allow them on any account to go into the witness box to give sworn evidence in support of their alleged statements. Mr. Comyns Carr professed indignation at the suggestion that the refusal of the

¹⁵ R. T. Paget, *Manstein*, pp. 72-73.

American authorities was due to fear that the condemned men might disclose what means had been employed to induce them to sign these statements, or that they might seize the opportunity to describe publicly the treatment which they, themselves, had received from their American captors.

There could be no dispute as to the methods commonly employed by the American authorities to obtain confessions, since the above-mentioned report of a special commission appointed by the Secretary of the U.S. Army, Mr. Kenneth C. Royall, had just been published, which described and denounced these methods. From this report, it appeared that, apart from unrestricted physical violence—most of the German victims of the Malmédy war-trials at Dachau were found to be rendered impotent from blows or kicks—the commission found that confessions had frequently been obtained by staging mock-trials. This procedure was adopted in cases when there was no evidence at all against the prisoner, so that even a military tribunal might hesitate to convict. Such an unsatisfactory state of affairs was remedied by bringing the prisoner before a court composed of investigators dressed as judges, who pretended to sentence him to death. He was then informed that, if he would confess, he would be reprieved. If he then signed the confession placed before him, he was immediately brought before the regular military tribunal which, relying on his confession, would sentence him to death. The commission reported that this trick had been successful in many cases.

Nevertheless, Comyns Carr argued that the court might safely accept the statements of the S.S. officers and their presence in the witness box was quite unnecessary. Readers of Charles Dickens will remember that at the trial of Bardell *v.* Pickwick, Sam Weller was told by the judge that what the soldier said was not evidence. At Hamburg, it was maintained that although what the soldier said might not be evidence, what the S.S. man said was evidence which could be accepted without hesitation. The fact was apparently overlooked that Lord Jowitt, in his memorable speech on May 4, 1949, had given the House of Lords an assurance that the trial of the Field Marshal "would be conducted in accordance with our great traditions." For hundreds of years, it has been a tradition of English criminal law that hearsay evidence is inadmissible. It is unthinkable that, when he gave this assurance, the Lord Chancellor did not know what were "our great traditions."

We are bound to accept the alternative assumption that he was unfamiliar with the terms of the Royal Warrant under the provisions of which the Field Marshal's trial would take place.

It is a relief to turn from such speculations in order to justify the claim made above that the trial of Field Marshal von Manstein must be regarded as a model war-trial. During the four years which had passed since the introduction of war-trials, several noteworthy reforms had been effected. For example, the accused was no longer referred to in the press as a war-criminal even before the charges were read, as had previously been the custom, and he was no longer subjected to flagrant bad manners by the court. Although, in the indictment, he was simply described as Erich von Manstein, this was treated throughout merely as a convenient legal fiction in pursuance of the principle laid down at Nürnberg that the rights of a prisoner of war are lost if, somehow, he is deprived of his rank by his captors. Throughout the trial, Field Marshal von Manstein was treated with the respect and consideration due to his rank and brilliant military achievements. When he entered the witness box, the members of the Court quickly forgot that they were supposed to be trying a war-criminal and settled down to hear, understand, and profit by a five-hour lecture on strategy which they were privileged to receive from one of the greatest soldiers of his generation. No doubt, at the back of their minds was the thought that, one day, they themselves might be called upon to cope with similar difficulties in a campaign against the same foe with whom "this benign, white-haired, half-blind old man had fought." To quote the correspondent of the *Daily Mail*, when Manstein entered the witness box, "the court room was immediately changed into a lecture hall of a staff college. Leaning forward to catch every word, the red-tabbed British officers heard him give a five-hour lecture on military strategy and full details of his Russian campaigns without reference to a note."¹⁶ If, as is to be hoped, these British staff officers benefited by the instruction given to them, this part of the trial, at any rate, was not an entire waste of time.

There is no interest whatever in the last phase of the average war-trial. All accounts agree that, after weeks and perhaps months of indescribable tedium, the only emotion felt by any-

¹⁶ *The Daily Mail*, October 22, 1949.

one at the end, including probably the accused, is profound relief. Some have compared a war-trial with a bull fight. Others consider the comparison unfair, to which subject of the comparison, there is a difference of opinion. But the Manstein trial was not a typical war-trial. Mr. Paget's final speech for the defense made a deep impression on the court. It ended with the solemn warning, "It is not within your power to injure the reputation of Manstein, you can but injure your own."

Mr. Paget admits that, at the conclusion of the case, he had become confident of an acquittal. One of the prosecuting team was heard offering odds of two to one on a clear acquittal but found no takers. In the usual war-trial, the odds in favor of a conviction could only be expressed by some astronomical figure. The Manstein trial was a model war-trial.

The reply of the prosecution was long but, compared with the opening, moderate and subdued. The most effective argument employed was the logical assertion that "acquittal of von Manstein would make nonsense of all other trials."¹⁷

Every possible allowance should be made for the difficulties which faced the members of the tribunal. They were officers of very inferior rank to the accused and not one of them had any experience with primary warfare. They possessed no personal knowledge of the difficulties of a commander-in-chief engaged in a campaign against a powerful enemy, in numbers greatly superior to his own, who finds his long lines of communication attacked by the civilian population. They were in the position of a committee of the boxing board of control called upon to enquire whether an exhausted wrestling champion had infringed certain of the Queensbury Rules. Their only desire was to do their duty. The charges were based on a haphazard collection of some 800 disconnected documents in a foreign language which it had taken twenty days to read. What facts could be deduced from this wild chaos? Mr. Paget's arguments appeared conclusive and were supported by common sense. But Mr. Comyns Carr could point to the undoubted fact that every war-trial tribunal, British and foreign, had, to date, accepted his contentions without hesitation. The complete lack of any admissible evidence such as would justify a conviction for petty larceny would appear to have made their task easy. But could it be believed that the Lord Chancellor would have

¹⁷ Paget, *op. cit.*, p. 192.

worried for six months about a case which could only end in an outright acquittal? Concerning the law governing the subject, the only thing certain about it seemed to be that the authorities contradicted each other on every point at issue.

For guidance on the difficult points of international law which were bound to arise during the trial, the tribunal had been provided with the judge of the Surrey County Court acting as Judge Advocate General. The task of this functionary, Judge Collingwood, could hardly have been more onerous. With no staff to assist him, he had to marshal some 800 documents and to prepare a summing-up which would cover all the points at issue raised in the seventeen charges. It is agreed that he performed this task admirably: nothing could have been fairer than his handling of the facts.

But questions of international law rarely, if ever, arise in county courts, the jurisdiction of which is limited to claims in which the amount in dispute does not exceed £100. Judge Collingwood had made no special study of international law. Further, in the Surrey County Court, litigants dissatisfied with his rulings on breach of contract, running down actions, the provisions of the Rent Acts, and other subjects on which he had wide experience, had a right of appeal to the High Court. But, at this war-trial at Hamburg, the mantle of infallibility which the Nürnberg Tribunal had assumed had been draped round Judge Collingwood's shoulders. From his rulings on international law the accused had no appeal.

Suffice it to say, Judge Collingwood rejected every important contention of the defense. He advised the tribunal that neither superior orders nor acts of state were any reply to the charges and that the accused was responsible for the full exercise of executive power within the area of his command, whether this power had been given solely to him or whether he had shared it with others. He laid down that the accused was bound to comply with the rules of civilized warfare whether his opponents complied with these rules or not. This latter ruling was particularly remarkable as the British Manual of Military Law declares just the opposite, as follows: "The rules of international law apply only to warfare between civilized nations where both parties understand them and are prepared to carry them out."

Most remarkable of all, however, was Judge Collingwood's ruling that the execution of prisoners as a reprisal was illegal,

under all circumstances. On this point the British Military Manual is most explicit. Article 453 lays down: "Reprisals between belligerents are retaliation for illegitimate acts of warfare for the purpose of making the enemy comply in future with the recognized laws of war. They are not a means of punishment, or arbitrary vengeance, but of coercion." To remove any possible doubts on the matter, Article 454 adds: "Reprisals are an extreme measure because in most cases they inflict suffering upon innocent individuals. In this, however, their coercive force exists and they are indispensable as a last resource."

It is not clear whether Judge Collingwood thought that the authors of the British Military Manual went astray in this exposition of international law or whether he considered that reprisals were permissible to British generals but illegal in all circumstances to foreign generals or, at any rate, to German generals. It is certain, at least, that a British general who acted strictly in accordance with the directions of the British Military Manual would have no reason to fear a court-martial. It is, no doubt, equally certain that he would now find this little protection in the event of his discovering himself on the losing side and being subjected by his captors to a war-trial. In a letter to the *Times*, written immediately after the trial, Captain Liddell Hart concludes:

I have studied the records of warfare long enough to realize how few men who have commanded armies in a hard struggle could have come through such a searching examination, of their deeds and words, as well as Manstein did. His condemnation appears a glaring example of either gross ignorance or gross hypocrisy.¹⁸

Some may think that this opinion makes insufficient allowance for the enormous difficulties of the task which the tribunal had had to face. They had nothing to do with the decision to charge the Field-Marshal as a war-criminal: this decision was entirely the responsibility of the British Government. They had nothing to do with the framing of the seventeen charges: two of the charges had been brought by the Communist Polish Government and fifteen by the Communist Russian Government. The purpose of the trial must have been as obscure to them as to everyone else. They were asked to find, as proved, facts which the prosecution admitted could not be proved in

¹⁸ *The Times*, January 11, 1950.

accordance with the recognized rules of evidence. On difficult points of international law, upon which even the experts disagreed, they were under the guidance of a county court judge. Thoroughly befuddled and confused, who can doubt that they did their best?

Everyone knows the story of how, during the Crimean War, an aide-de-camp galloped up to the Light Brigade with the order to charge the enemy's guns. "What enemy, Sir, what guns?" inquired Lord Lucan testily. "There are the enemy, my Lord, there are the guns!" replied the aide-de-camp, slightly scandalized by the question, with an airy wave of his hand towards the enemy's positions. Lord Lucan did not condescend to ask further questions: his duty was to command the British Cavalry Division in the Crimea and not to try to make sense of the commander-in-chief's orders. Clearly, the commander-in-chief wanted the Light Brigade to charge the enemy's guns. So, he communicated the order personally to the commander of the Brigade, Lord Cardigan. The latter was equally bewildered. Still, his duty as a soldier was to carry out orders, not to try to interpret them. He was bound to assume that his superiors knew what they were doing. Drawing his saber, he led his squadron in a charge in what proved to be the wrong direction down a valley destined to become immortal as the Valley of Death.

Neither at Balaclava, in 1854, nor at Hamburg, in 1949, was it a soldier's duty to ask questions about orders. "Theirs not to reason why!"—particularly on subjects about which the experts contradicted each other. The gallant band composed of one Lt. General, a Major-General, two Brigadiers, and three Colonels metaphorically straightened their shakos, drew their sabers, exclaimed "Hurrah!" in unison and led each other to the charge. That "someone had blundered" was obvious in both cases but in neither did this affect the simple duty of a soldier. At Balaclava, the result was dismissed as magnificent but not war; at Hamburg, the result may be dismissed as far from magnificent and certainly not law.

The findings of the tribunal can be briefly summarized. There were seventeen charges in all, two from Polish sources and fifteen from Russian. Field Marshal von Manstein was acquitted outright on eight charges, including the two Polish charges which, as Mr. Paget says, "were so flagrantly bogus that one was left wondering why they had been presented at

all." He was held accountable on seven charges, after the prosecution had been permitted by the court to modify them after the close of the case for the defense—a very questionable procedure. So modified, the upshot may be regarded as equivalent to an acquittal. On two charges, only, was the Field Marshal held to be guilty.

The two charges upon which he was held guilty were, first, that he had permitted Russian prisoners to be used in clearing minefields: the Allies after the war made it a common practice to use German prisoners of war for mine-clearing. Secondly, that he permitted Russian civilians to be deported from his area for work in Germany: at the time the tribunal was deliberating on this charge, it was common knowledge that, in Russia and Siberia, there were tens of thousands of civilians deported for forced labor, not only from Eastern Germany but also from the Baltic countries overrun and annexed by Russia in 1939, and from Hungary, Finland, and Roumania.

The Field Marshal's conviction on the charge that he had permitted Russian civilians to be deported from his area for work in Germany is particularly remarkable because, at the time it was alleged he committed this offense, the Allied leaders were formulating and approving the Morgenthau Plan which specifically recommended "forced German labor outside Germany" as a form of reparations.¹⁹ It should also be observed that, at the time of von Manstein's trial, it was very widely known that several million prisoners of war were being detained by the Soviet Government for forced labor in Russia. According to estimates prepared by the information section of NATO, these prisoners included 2,000,000 Germans, 370,000 Japanese, 180,000 Roumanians, 200,000 Hungarians and 63,520 Italians. According to the NATO estimates, 40 per cent of these can now be reckoned as dead. The surviving 60 per cent are still working as forced labor.²⁰

Compared with the gravity of the original charges, as outlined in Comyn Carr's opening speech, the offenses of which the Field Marshal was found guilty may be dismissed as trivial. Nevertheless, "the sixty-two year old, white-haired, half-blind soldier" was solemnly informed that he "must serve eighteen years in prison to start from today: the period of four years

which you have already spent in custody has been taken into consideration."

Having regard to the tributes paid by the defense to the courtesy and humanity of the tribunal, it is regrettable that the phrasing of the judgment gives so unpleasant an impression. Obviously, it could make no difference to an elderly invalid whether the four years which he had spent as a prisoner of war were taken into account or not. Assuming that it was really intended that he should serve his sentence, his chances of emerging a free man amounted to nil, whether his sentence was eighteen years or eighty. Equally unpleasant is the impression made by the subsequent reduction of the sentence from eighteen to twelve years. This ostentatious display of anxiety that the length of the sentence should exactly fit the crime appears such transparent humbug that it is difficult to consider it with patience. It must be left for persons with a mathematical turn of mind to work out what would have been a suitable penalty to inflict, had the accused been found guilty on all seventeen charges, assuming that a sentence equivalent to a life sentence was a fitting penalty for two of the least serious of these charges—charges of which the accusers themselves were notoriously guilty. The court gave no indication of the grounds upon which they had accepted certain charges and rejected the others; whether they had accepted the principles of international law as laid down in the British Military Manual or whether they had preferred to be guided by the views on international law accepted in the Surrey County Court; or to which charge they attached particular gravity, or by what calculation they had arrived at the penalty of eighteen years. There was, in fact, no apparent connection between the findings and the sentence.

The most charitable view is that the tribunal was, at the conclusion of the case, so completely befuddled by the ordeal through which they had passed that they overlooked the fact that their verdict amounted to an acquittal, and proceeded to pass a sentence of life imprisonment as the obvious alternative to the death penalty. Having decided not to acquit, they probably imagined that they were being lenient. A complete disappearance of all sense of proportion is commonly a symptom of a general paralysis of the reasoning powers resulting from prolonged mental exertion along unfamiliar paths.

¹⁹ See William Henry Chamberlin, *America's Second Crusade*, pp. 210, 307.

²⁰ See *Time*, July 7, 1952.

British foreign policy has often greatly puzzled foreigners. Frequently, it has appeared an insane compromise designed to serve conflicting aims; not seldom, it has appeared to be directed to no apparent aim of any kind. But the gradual acquisition of an Empire which, by 1919, had come to include more than 11,000,000 square miles, that is to say, about a fifth of the land surface of the globe, with a population of over 400,000,000, about a fourth of the world's inhabitants, appeared to establish that "Though this be madness, yet there is method in't." Hence arose the legend of perfidious Albion.

Mr. Paget expresses the opinion that the Manstein trial "was a political as opposed to a judicial process." It was, in fact, an act of policy by the British Government, decided upon deliberately, according to Lord Jowitt, after he had been given six months' worry. The question, therefore, naturally arose as to what was the precise political object which this act of policy was intended to serve. In spite of ingenious and widespread speculation outside Great Britain, this question remains unanswered. The following letter from a distinguished Polish correspondent well expresses and explains the complete bewilderment of contemporary foreign opinion:

Until the last day of the Manstein Trial the aims of the British Government seemed clear enough. We Poles demanded the surrender of Manstein from you so that we could hang him for having taken part in our humiliating overthrow in 1939. Our Communist brethren in Russia demanded his surrender to avenge the repeated defeats he had inflicted on them. You refused. This seemed to us quite natural: we assumed that you intended to hang him yourselves for bringing about your overthrow at Dunkirk. After waiting four years for no apparent reason you decided to bring him to trial. As apparently you could think of no charges yourselves, we and the Russians supplied you with an impressive list of charges. Then you made the absurd blunder of permitting Manstein to be defended by an advocate over whom, as a British subject, you had no powers of coercion. Contrary to the fundamental principles of a war-trial, you permitted this advocate not only to defend Manstein, but to attack the conduct of the victors during the war.

What seemed the obvious explanation quickly dawned on us: you intended to use the trial as a weapon of propaganda against us and our Soviet allies. This seemed to us quite natural. What amounted to a state of war already existed between you and the Soviet Union: you desired to curry favor with German public opinion by a triumphal vindication of Manstein at our expense, so as to obtain a supply of German *Kannonfutter* when hostilities commenced. You indeed acquitted him of all the graver charges and then imposed a

penalty for a few minor offenses which would have been severe had you convicted him of everything with which he has been charged. We have no explanation for this. You have allowed Manstein's defenders to attack the Soviet Union; you have insulted the German people by sending to prison their greatest war leader; you have shocked enlightened opinion throughout the world; you have allowed it to be proved by a judicial trial that all the charges against Manstein were baseless and you then proceeded to convict him for some of them for which you send him to prison for life. With great trouble and expense you have annoyed everyone and pleased no one. It just does not make sense.

Certainly no sense can be made of the Manstein trial on the basis of the facts as stated by the writer of this letter. He accepts as self-evident Mr. Paget's contention that the trial was "a political as opposed to a judicial process," and then seeks in vain a political purpose which this political process might serve. But this failure results from his omission to take into account two of the most material facts of the case, namely, the reciprocal obligations which the victors of 1945 had undertaken to exchange prisoners of war accused of war-crimes, and the indignant opposition aroused in British military circles at the prospect of a distinguished European soldier being handed over to his Communist enemies to be slaughtered in accordance with the ancient practice of primary warfare. In the British Army, at least, the traditions of civilized warfare survived.

The real struggle concerning Manstein's fate took place behind the scenes before his trial began. On the one side were his military opponents of 1940, all the more determined by their defeat in that year to vindicate the traditions of European civil warfare. On the other side were the politicians, fearful of giving the Kremlin technical ground for complaint. The struggle ended with a characteristically British compromise. It was decided that a British military tribunal should be assigned the fantastic task of deciding whether certain alleged acts committed in ferocious primary warfare were reprehensible if judged by the standards of civilized warfare.

Foreign critics should note that the outcome of this irrational compromise achieved the twofold purpose intended: the British traditions of civilized warfare were maintained and von Manstein was saved from being slain by the Russians.²¹

²¹ Marshal von Manstein was finally freed from prison on May 7, 1953. At that time, it was estimated that there were still 854 German war criminals held by Western powers—304 of them held by the United States in Landsberg Prison; 224 by France in Wittlich Prison and elsewhere; and 102 by the British in Werl Prison.

CHAPTER IX

REFLECTIONS ON THE WAR-TRIALS IN
HISTORICAL PERSPECTIVE

THE first edition of this book, published in England in July 1948, concluded with an appeal that, as a first step along the road back to civilized standards, an impartial tribunal of jurists from countries neutral in the late war, such as Switzerland, Sweden, Spain, Portugal and the Argentine, should be appointed by the United Nations to re-hear and to consider the evidence adduced at the various war-trials and to deliver findings on the charges made and the verdicts pronounced.

It must be remembered that it is not only a question of how justice can be done to certain individuals who claim that they have been wrongly convicted by courts having no jurisdiction to try their cases. It is also a question of how justice can be done to a number of eminent, respected and well-meaning persons who, it is claimed, mistakenly imagining they had jurisdiction, tried and convicted a number of innocent persons. Surely these persons are entitled to have refuted the suggestion that, with admittedly admirable intentions, they committed incredible blunders. It would be no reflection on these persons that their decisions were made subject to review: under most judicial systems, convictions for grave crimes are followed, almost automatically, by appeals. Although, perhaps, more often than not, these appeals prove to be frivolous, when a verdict is disputed as contrary to either law or fact, the matter can be disposed of in no other way than by a hearing by a court of appeal. Why should not disputed verdicts of war-trial tribunals be dealt with in this way? An appeal court of neutral jurists could finally dispose of the misgivings so widely felt: it would surely be a relief to the members of the court which, for example, convicted Admiral Raeder to learn that, after all, they had decided rightly. It is possible, also, that this international appeal court might see fit to go further and deliver a solemn condemnation of the Nazi régime, a condemnation which would finally dispel the sympathy that, possibly unjustifiably, these war-trials have generated in favor of the vanquished. The establishment of the facts, beyond question, by a tribunal of neutral jurists might, even yet, serve to

prevent the idealization of Adolf Hitler as the last champion of European greatness, a legend which otherwise will inevitably arise in the times of political humiliation and economic hardship which lie before the peoples of Europe. On the other hand, if this neutral appeal tribunal dissented from the judgments of the war-trial tribunals, belated justice could be done, at least to those victims whose lives have been preserved and who are now suffering imprisonment.

At the time this suggestion was put forward, several developments had occurred which made it appear that it was just possible that this suggestion might be given consideration. In particular, the American and British Governments had recently delivered strongly-worded notes to the Bulgarian Government protesting at the manifest injustice of the trial of Nikola Petrov, the anti-Communist peasant leader who had been condemned to death by a tribunal composed entirely of Communists on charges of anti-Communist activities brought against him by the Bulgarian Communist Government. Unless these notes of protest were to be regarded as only meaningless gestures, they appeared to amount to a solemn repudiation by the authorities in Washington and London of the principle that a party to a prosecution is a fit person to try the case, that is to say, the principle upon which all war-trials are based. Further, the outcry which followed the sentencing to death of Field Marshal Kesselring after a trial in which his captors acted the joint rôles of prosecutors and judges, suggested that, already, a return to a normal outlook was taking place. It seemed likely that, very shortly, the whole crop of war-trials would be dismissed generally as a natural and, therefore, pardonable outcome of that mental and moral paralysis which is the inevitable product of a bitter and protracted war fought under present-day conditions.

Unfortunately, these encouraging indications of a rapid return to sanity have proved deceptive. It is now clear that there is not the most remote prospect of any of the victorious states under any circumstances agreeing to submit the doings of their war-trial tribunals to investigation by an impartial neutral tribunal. So far as the British Government is concerned, British military courts and the august tribunal of which Lord Justice Lawrence and Mr. Justice Birkett were members, must be regarded as infallible, at least to the extent that their infallibility must never be questioned, much less tested. Contrary to opti-

mistic expectations, war-trials did not gradually cease after the close of the Nürnberg proceedings: on the contrary, they continued unchecked until the supply of victims was exhausted. The principle that a prosecutor is a fit person to judge his own charges was no longer either upheld or defended, it was acted upon. The extraordinary stubbornness with which the British Government persisted in subjecting Field Marshal von Manstein to a belated war-trial finally disposed of the belief that wartime passions were rapidly fading away.

The most that can now be hoped for is that the victorious states of Western Europe will gradually, one by one, follow the example set in 1950 by the American Government in releasing those victims of war-trials whose convictions can least plausibly be defended, without, however, repudiating the principles and procedure of the war-trials which convicted these men. Thus, in January, 1951, Alfred Krupp, the head of the famous firm of armament manufacturers, was released by the American authorities after serving two years of a sentence of twelve years imprisonment passed on him for having "guilty knowledge" that the German Government was employing slave labor. Released shortly before was Baron Ernst von Weizsaecker, German Ambassador to the Vatican from 1943 to 1945, sentenced to seven years imprisonment for "a crime against humanity," the allegation against him being that he knew or should have known crimes were taking place, although it was not suggested that it was within his power to prevent these crimes, had he really possessed such knowledge.

It cannot, unfortunately, be claimed that this belated act of justice by the United States aroused a spirit of generous emulation among her allies and associates. On the contrary, it was resented as an act in bad taste, by creating a precedent which no one desired to follow but was hard to ignore. No one but Sir Hartley Shawcross, the British Attorney-General, was imprudent enough, however, to give expression to this resentment. In a long and rambling speech, delivered in London on March 28, 1951, Sir Hartley declared that he viewed with concern any act which might tend to undermine "individual criminal responsibility," and went on to hint that the real object in releasing these prisoners was not to remedy the gross injustice done them but to curry favor with the German public, now that the United States urgently desired to win German coöperation and armed support in the coming struggle

with the Soviet Union. "It is very disquieting," Sir Hartley Shawcross declared, "that some, either because of mistaken ideas of political expediency or because of the false idea that these sentences were no more than vengeance wreaked by the victors on the vanquished, should seek, as a matter of policy, to take action undermining the validity of what had been done."

For this outburst, Sir Hartley received a devastating and well-merited snub from the American High Commissioner, Mr. John J. McCloy. "My decisions," Mr. McCloy declared, "were as free from any influence of political expediency as was the prosecution of these cases in the first instance."

Sir Hartley Shawcross, it may be remembered, was chief British prosecutor at the Nürnberg war-trials and, consequently, no one knew better than he how "free" war-trials had been, in the first instance, from any influence of political expediency! His extreme sensitiveness may be compared with that of Lord Justice Lawrence who, it will be recalled, resented a very mildly-worded comment concerning the presence on the Bench at Nürnberg of Communist judges trying crimes against humanity, as a personal insult to himself.

This speech of Sir Hartley Shawcross, on March 28, 1951, expressed a widely-held assumption which deserves examination in some detail. At Nürnberg, Sir Hartley asserted, certain great principles were for the first time laid down. These principles, he assumed, have conferred incalculable benefits on mankind. From this, he argued that these principles should, on no account, be undermined for mere political expediency.

Admittedly, certain principles were laid down at Nürnberg, novel and startling principles. But, to become important, a principle requires not only to be laid down. It must be adopted by some one and, still more, it must be put into practice.

Certainly, these principles were not practiced before they were laid down at Nürnberg: before 1945 they existed only in the sense that the Tribunal bestowed on them retrospective effect.

A popular belief has gradually grown up that these principles were laid down as a result of the fact that the Tribunal observed with what justice and humanity the victors in the war which had just terminated were behaving, and reflected how satisfactory it would be if everyone, for the future, could be induced to behave likewise in similar circumstances. Noth-

ing could be further from the truth. These principles were most emphatically not being practiced by anyone at the time when they were so solemnly laid down. Far from any dawn of a new epoch of enlightenment and humanity being apparent in 1945, never since the days of the Thirty Years War, as Thomas Hobbes would have put it, had life in Europe been so "nasty, brutish, and short." Before they set forth to Nürnberg, the members of the Tribunal had found all the principles which they later laid down already formulated for them in the Charter from which they claimed to derive their authority. There is no indication that they allowed themselves to be influenced in any way by contemporary happenings. On the contrary, they seem deliberately to have cut themselves off from all news of what was happening in the world around them and, by a remarkable effort of will, to have dismissed from their minds everything which they had heard about the war and the events which had led up to it.

Never before had such a comprehensive judicial ignorance been professed by any court of law. Thus, it was common knowledge to everyone except Lord Justice Lawrence and his learned colleagues that Great Britain, after long deliberation, had in 1940 committed an act of war against Norway some days before the German invasion of Norway commenced. The Tribunal, however, insisted on judging the matter on evidence strictly limited to the issue whether Admiral Raeder had planned and directed the German invasion. With all knowledge of the surrounding circumstances rejected or suppressed, the small collection of facts accepted as evidence was consistent with the inference that the idea of invading Norway had existed only in the evil mind of Admiral Raeder, with the result that he was lightheartedly condemned to life imprisonment.

It is, indeed, hard to realize, when studying the sorry story of the proceedings at Nürnberg and the terms of the judgment ultimately delivered with such enormous solemnity, that, all around at that very time, deeds of unparalleled horror and brutality were taking place on a stupendous scale. While the Tribunal was happily employed defining and imposing punishment for German crimes against humanity, the entire populations of East Prussia, Pomerania, Silesia, and the Sudetenland were being herded in endless droves of men, women and children along the roads leading westward into Germany, stripped of everything which they possessed. It is estimated that some two

million of them were murdered by the Poles and Czechs or perished of cold, hunger or disease. The following experience, which was repeated tens of thousands of times and sometimes under even harsher conditions, and involved around fifteen million persons altogether, was in some ways even more horrible and cruel than the bombing of Dresden, Hiroshima, and Nagasaki, or Hitler's extermination of Jews. Indeed, more than a million Germans were murdered by Russians, Poles, Czechs, and Hungarians during the process of expulsion.

We received notice from the Poles of our evacuation from East Prussia on October 30, 1945. On November 10, the expulsion of hundreds of people started; this number later grew to thousands. To the sound of ringing church bells, we left our homeland at seven in the morning. But even before, at six o'clock, young Poles with rubber clubs were upon us, shouting: "Get out! Get out!"

Then began an unspeakable journey. We were robbed even before we left Maldeuten. They took our food, and as I lost my coat, I had to travel four weeks in open coal cars clad only in a thin summer jacket. At times, we rode on the roofs of coaches. It was so icy that one person fell off the train in his sleep. One stretch—from East Prussia to Stargard (Pomerania)—accounted for 65 deaths. Cars were littered with corpses. One old man lay near us and no one bothered about him; the train had no attendants. The first food we received was at Sangerhausen and Freudenstadt in Thuringia.

In Danzig, the train was stopped for three days; again, we had nothing to eat. In Stargard, a Russian transport stood across the track loaded with goods for the Soviet Union. At night, the Russians slipped across to our train to rob us of our last possessions. They had lots of time, and they did a thorough job. There was a regulation against plundering, however, and one man advised us to shout "Help" whenever the Russians came. The next time they paid us a visit there was a deafening roar from hundreds of throats. Many Russians were frightened away, but some became angry and began to shoot into the coaches.

After three days we were told that the Polish engineer had left and taken the locomotive along. If anyone wanted to go further, he could go on foot. At the central station a train took us to Scheune, near Stettin, where we found a refugee camp teeming with thousands. We lay close to one another in ice-cold wind. There was no shelter or cover of any kind. We no longer possessed anything.¹

While the Tribunal was occupied dutifully carrying out the direction in the Charter to punish cases of "persecution on political grounds," all over Germany National Socialists were being committed to prison, fined, and debarred from earning

¹ Roger N. Baldwin, John Dewey, John Haynes Holmes *et al.*, *The Land of the Dead*, New York: Committee against Mass Expulsion, 1947, pp. 23-24. See also, Juergen Thorwald, *Flight in the Winter*, London: Hutchinson, 1952.

their living by courts staffed by their political enemies; the wives of National Socialists were being similarly penalized, and disabilities, such as debarment from higher education, were being imposed on their children. The Tribunal, as directed by the Charter, treated the employment of slave labor as a war crime and punished it, accordingly, with gusto, but it gave no indication that it was aware that German prisoners of war, to the number of several million, were still being used as slave labor. The Tribunal listened with tireless patience to descriptions of the conditions which had existed at Belsen, but expressed no concern over the fact, which was common knowledge to everyone, that there existed between the Iron Curtain and the Arctic Circle scores of similar concentration camps in which the conditions were as bad or worse. Unpalatable facts, such as these, were rigidly excluded from the dreamworld in which the Nürnberg Tribunal had elected to live.

It would, indeed, be easy to justify the great importance which some profess to attach to the principles of humanity and justice laid down by the Tribunal if it could be shown that the laying down of these principles had led to the closing of one concentration camp, had caused one country to cease using its prisoners of war as slave labor, or had saved the inhabitants of one town or village in Eastern Germany from being expelled penniless from their homes.

If it could be shown that there had been, anywhere, some such immediate effect, it would be possible to hope that these principles would, in time, come to exercise a dominating influence over international relations. It is, unfortunately, an undeniable fact that the doings of Lord Justice Lawrence and of the Tribunal over which he presided with such dignity, had no influence whatever on the course of contemporary events in the way of promoting more humane procedure.

To offset this regrettable but undeniable fact, can any evidence be found indicating that the ostensible principles laid down at Nürnberg are gradually acquiring influence? The outbreak of the war in Korea, in 1950, should at least serve the purpose of providing an answer to this question. From the moment hostilities commenced, opinion throughout the world was unanimous that the war in Korea was a war of aggression. When embarking on a war of aggression was specifically condemned at Nürnberg as "the supreme international crime, differing only from other war crimes in that it contains within

itself the accumulated evil of the whole," it was proclaimed that this condemnation would exercise an enormous restraining influence for the future on all governments who might feel tempted to embark on a war. It was contended that the knowledge that their soldiers would refuse to fight, unless the most conclusive proof was given them that they would not be taking part in a supreme international crime, would restrain rulers from going to war except in a manifestly just cause.

This prediction, so confidently made in 1945, has not been realized. So far as Great Britain is concerned, no reluctance or hesitation has been reported on the part of members of the armed forces to take part in the war in Korea; no particular interest or concern was apparently felt by anyone concerning the issues involved. Most certainly, there was no heartsearching on the part of anyone as to whether the war in Korea was a war of aggression by the United States, the view held unanimously in that part of the world dominated by the Soviet Union, or whether the war in Korea was a war of aggression by China, egged on by the Soviet Union, the view held unanimously in that part of the world dominated by the United States. In short, in Great Britain, the Korean War of 1950 was accepted by the man in the street in precisely the same spirit that his ancestors had accepted the Crimean War in 1854. The ancient conviction remains unshaken that, in a quarrel with foreigners, a man's own country must be in the right, qualified only by the hope that victory would come quickly and would not cost too much money.

No doubt, it is very deplorable that the labors of so august a body as the International Military Tribunal should be so universally treated as of so little importance. The explanation is, however, obvious. As Sir Hartley Shawcross admitted in his speech quoted above: "The enforcement of the criminal laws of war is invariably by the victorious Power." If, therefore, a state sees to it that none of its enemies have the opportunity to adopt the role of a victorious Power, the criminal laws of war have for that state no existence in practice. Abstract questions of right and wrong have, consequently, no more influence than they had at the time of the Crimean War, in fact very much less. The distinction between right and wrong can only arise after an unconditional surrender which, it has been held, automatically vests in the victors the right to try their own case, decide that they have been in the right from

urt, and that the vanquished are war criminals. The Nürnberg proceedings have, therefore, only one lesson to offer the combatants in Korea or to the combatants in any future war. The lesson could not be simpler or more clear: make sure of winning, by hook or by crook, or, at any rate, make sure not to lose, and nothing else will then matter in the least.

Early in the war in Korea, the very situation arose which figured so prominently in several recent war-trials, the situation which several experienced and able German generals were to have handled so culpably. Bands of Communist партизаны having infiltrated through the American lines, were occupying themselves ambushing convoys, destroying communications, attacking isolated units and committing all kinds of atrocities. The war-trial tribunals, which had condemned Field Marshal Kesselring and Field Marshal von Manstein, had laid down what a commander *should not do* when his operations were being hampered and his men slaughtered by armed civilians, but they had omitted to indicate what he *should do* in such trying circumstances. It appeared, therefore, that an opportunity had been given the American commanders in Korea to remedy this omission and to demonstrate the extent to which they had come to be dominated by the findings of war-trial tribunals.

It must be confessed that the result appears disappointing. A particular difference is perceptible between the measures adopted by the United Nations authorities in Korea, in 1950 and thereafter, and those which had been adopted by Marshal Mola to cope with the Spanish guerillas in Aragon as long ago as 1810. Civilians found in possession of arms were summarily shot; civilians suspected of aiding the partisan bands were expelled from their villages and interned, the abandoned villages being then burnt to prevent them being used as hide-outs by partisans; and incendiary bombs were even dropped on civilian dwellings where partisans were suspected of being concealed. It appears that the widest discretion was given local commanders to do what they considered necessary to protect themselves and their men; it has been alleged that reprisals for atrocities were regarded by the authorities in the same indulgent manner that the reprisals by the Black and Tans in Ireland were regarded in 1920.

At the war which broke out in Korea, in 1950, provided there is no more striking demonstration of how little influence

the principles laid down by the London Agreement of 1945 have had on the conduct of warfare. According to these principles, interpreted and applied at the war-trial of General Yamashita at Manila, in 1945, at the war-trial of Field Marshal Kesselring at Venice, in 1947, and at the war-trial of Field Marshal von Manstein at Hamburg, in 1949, the commander-in-chief of an army is personally responsible if any of the men under his command are guilty of breaches of the rules of war, commit atrocities, or otherwise gravely misconduct themselves. This responsibility is absolute. Providing the offenses are committed by men even only nominally under his command, it is irrelevant whether the commander had knowledge of what was happening or had the means to prevent it. As previously described, General Yamashita was hanged because atrocities were committed by units over which, owing to the success of the American operations, he had ceased to have any contact, much less control. He was, however, judged to have committed the then newly created war-crime of "failure to control."

Included in the forces fighting for the United Nations under American supreme command in Korea were numerous units composed of South Korean troops. Quite naturally, in the eyes of these troops their North Korean opponents were rebels in arms against the government of President Syngman Rhee. As a consequence of this view, they shot their prisoners as a matter of course, with the exception of those unfortunate enough to be reserved for questioning under torture by the security police. Civilians in districts suspected of being pro-Communist were rounded up by the security police, retained in revolting conditions in concentration camps, interrogated under torture, and periodically thinned out by mass executions. Detailed particulars of these mass executions have, from time to time, been published. It is not denied that these mass executions took place, —it has only been suggested that the number of victims may have been rather exaggerated. There are a number of well-attested cases in which Syngman Rhee's security police, instead of rounding up the inhabitants of a village suspected of Communism, carried out a mass execution of the entire population there and then on the spot. Ultimately, these grisly doings led to protest from the American authorities which resulted in polite assurances being received from the South Korean authorities that, for the future, the execution of rebels would be carried out in a less haphazard fashion.

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There are, of course, two sides to this question. Can it reasonably be doubted that the worst excesses committed by the South Koreans on their Communist fellow-countrymen were paralleled by similar excesses by the North Korean Communists on their anti-Communist opponents? Must it not have been difficult for the American generals to maintain control over an army composed of troops from so many states, speaking different languages, and fighting in wild and often roadless country? Was not the maintenance of internal order essentially a matter for the South Korean Government? How could an American general be expected to regard with unqualified disapproval measures which at least served to protect American lives?

It is impossible here to consider the matter on its merits. Judged by reasonable standards, it may well be that the American commander-in-chief and his subordinates were entirely blameless. What concerns us here is that, judged by the standards laid down at the war-trial of General Yamashita, and at the war-trial of Field Marshal von Manstein, it is impossible to acquit the American commanders in Korea of grave war-crimes. Indisputably, they failed, in many cases, to control the troops under their command, in particular the South Korean troops, and they failed completely to control President Syngman Rhee's security police. It is futile to maintain that the latter took their orders from President Syngman Rhee. All South Korea was under American martial law. If Field Marshal von Manstein should have known that the German security police had adopted Communist methods to combat the Communist guerillas operating behind his Russian front, then, by the same argument, the American commander-in-chief should have known the same thing was happening behind the American front in Korea.

Now it is generally agreed that the most important of the principles laid down at Nürnberg, to which Sir Hartley professes to attach such supreme importance, is the principle that everyone conducting a war must be held personally responsible for any misdoings committed by his colleagues and subordinates. It is argued that, ignorance being no longer a defense, no one, however highly placed, can any longer afford to turn a deaf ear to rumors of misconduct. This must result, it is claimed, in the maintenance of a ceaseless vigilance on the part of those in authority which will, henceforth, insure that

the slightest lapse from the highest standards of civilized warfare will be promptly detected and punished.

Within a few weeks of his above-mentioned speech, an incident occurred which demonstrated the slight importance attached in practice by Sir Hartley Shawcross himself to the most important of the Nürnberg principles. A certain Mrs. Monica Felton, an ardent Left-wing Socialist, returned from a visit to the Soviet Union and North Korea, where she had been told, through an interpreter, various stories of atrocities alleged to have been committed by the anti-Communist forces in Korea. Like Lord Justice Lawrence and Mr. Justice Birkett at Nürnberg, Mrs. Felton guilelessly accepted hearsay evidence as having "probative value" and, relying on this august authority, had broadcast in English, no doubt in good faith, a selection of these stories over the Moscow Radio. On her return, she was promptly dismissed from her post as Chairman of the Stevenage Development Corporation by Sir Hartley's colleague in the Cabinet, Mr. Hugh Dalton, the Minister of Local Government. Although Mr. Dalton explained that her dismissal was the penalty for neglect of her duties and was quite unconnected with her disclosure of atrocities, so great was the resentment aroused against her by these stories which she had repeated, that it was shortly afterwards announced, with due solemnity, by Sir Frank Soskice, the Attorney-General, another of Sir Hartley's colleagues, that her case had been laid before the Director of Public Prosecutions in order that he might consider bringing a charge of high treason against her.

We are not concerned here with the very lame sequel which followed a few days later—Sir Frank Soskice reported apologetically that he had been advised that there was insufficient evidence to bring a criminal charge against Mrs. Felton. Neither are we concerned whether the atrocity stories broadcast from Moscow by her were in fact true or false. The significance of the episode arises from the demonstration which it provides of the attitude of the British Cabinet, of which Sir Hartley Shawcross was a member, to rumors of misdoings in a campaign in which British forces were engaged. No concern was professed as to whether Mrs. Felton's hearsay stories were true or false, or whether any indirect responsibility had fallen on the British Commander in Korea in accordance with the Nürnberg principles. The complaint against Mrs. Felton was simply that she had made public what it was desirable to prevent

being known, in breach of her patriotic duty to dismiss summarily any complaints which she might hear against the anti-Communist forces in Korea as Soviet propaganda.

It will be remembered that the charge against Field Marshal von Manstein was that he had turned a deaf ear to rumors which, it was said, must have reached him of the doings of the German security police in the occupied territory behind his front over which he, admittedly, had no control.

So much for the plea of Sir Hartley Shawcross that the surviving victims of war-trials should be detained in prison, lest their release should undermine the principles upon which these war-trials had been carried out. It is submitted that the conduct of the war in Korea can only be regarded as a formal repudiation of these principles. It has become more fantastic than ever, therefore, that men should be detained in custody for retrospective breaches of principles which are now openly disregarded even by the leaders of those states which laid them down.

It was not, however, until eighteen months later that the basis of Sir Hartley Shawcross' agitated appeal received specific and authoritative repudiation. It happened that, in July, 1952, it was reported that the Chinese Communists were considering following up their germ warfare propaganda campaign by initiating war-crimes trials "according to the principles established by the international military tribunals of Nürnberg and Tokyo." Such trials, as Lord Hankey pointed out in a forceful letter to the *Times* on July 31st, would assuredly deal not only with such *ersatz* offenses as "waging a war of aggression" and "crimes against humanity," but also "new charges and new crimes, fabricated in imitation of the Nürnberg and Tokyo models, with oriental embellishments, including acts that were not crimes at the time they were committed, as well as new rules of evidence, for example, to admit material trumped up for the Dean of Canterbury to prove that the Americans had been waging germ warfare in Korea."

Viscount Maugham, formerly Lord Chancellor of England, in a letter to the *Times* on July 25th, disposed finally of the suggestion that the Chinese Communists would be legally justified in carrying out such trials by appealing to the authority of Nürnberg. At the same time, in passing, he also disposed of the above-mentioned plea of Sir Hartley Shawcross that the principles established at Nürnberg should at all costs

be preserved for the benefit of posterity. In brief, he declared that these principles could not be preserved because they did not exist. In the above-mentioned letter and in a further letter of August 22nd, the ex-Lord Chancellor wrote, "The Nürnberg trial was not a trial under English or international law, but a special military trial in Germany under a special code and by judges from four foreign countries, deriving their judicial powers under a charter by joint agreement of the four States as occupiers of Germany after a capitulation." The law laid down by this agreement (the London Agreement) was binding on the Tribunal and "the jurisdiction of the Tribunal derived from the Charter was indisputable within the occupied area," that is to say, in Germany. "But," Viscount Maugham concluded, "*the Tribunal never purported to lay down 'principles' for all mankind.*"

In the light of the above authoritative opinion, it now appears that Sir Hartley Shawcross was not only disturbing himself unduly over the preservation of principles which have never been applied in practice, but over principles which never existed as "principles for all mankind," and were, in fact, not principles at all but a number of arbitrary decisions laid down by a group of occupying powers for application to a certain occupied territory.

Accepting this view of the matter, Lord Hankey, in his letter to the *Times* on July 31st, urged that "unless we are to contemplate an eternal vista of war-crimes trials, the Allies should admit that the policy adopted at Nürnberg and Tokyo has not fulfilled the hopes placed upon it." Among the five proposals he put forward was that "a generous amnesty" should be granted to all persons now suffering imprisonment as a result of war-crimes trials.

It may, perhaps, seem that too much importance can be attached to the release of a few men sentenced to imprisonment for retrospective war-crimes. At a time when so many millions have suffered so terribly as a result of two world wars, how can the fate of a few elderly soldiers and sailors have such significance? Compared with the fate of those who have lost all that they possessed, have been blinded, maimed, or ruined in health, is it really so terrible a fate that an old man, like Admiral Raeder for example, whose life's work is finished, should be detained in custody for the few remaining years of his life?

The individual humanitarian aspect of this subject is not, however, its most important aspect. A man who becomes a professional soldier volunteers to undertake certain risks. To be killed or wounded are recognized as the normal risks of soldiering. And a soldier cannot pick and choose against whom he will fight. He may be sent to fight barbarous enemies. At the end of the last century, a soldier sent to fight enemies like the Dervishes, the Abyssinians or the Boxers, had to face the risk that, in the event of his being taken prisoner, he might be mutilated or tortured. A soldier is not responsible for the methods of warfare which his opponents may adopt. When, in the first World War, Erich Raeder set forth in the flagship *Lützow* for the coast of Jutland, he knew that he risked being killed, wounded, or drowned in the great battle which lay ahead. In the second World War, he performed the normal duties of a naval staff officer with the surprising result that he now finds himself serving a sentence of imprisonment for life. This, certainly, was an unexpected risk, leading for him to a terrible calamity, but, some may think, to no worse calamity than had the risk he cheerfully undertook, in 1916, which led to his being blinded by a shell splinter.

It is imperative that Admiral Raeder should be released, not primarily as an act of justice to him as an individual but as an act of rehabilitation for those responsible for condemning him. Most wars give rise to regrettable incidents which are best forgiven and forgotten: the war which ended in 1945 gave rise to an exceptional number of such incidents as its aftermath. Incidents of this kind may be divided into those which can be rectified and those which cannot be rectified. Incidents like the hanging of General Yamashita cannot be rectified. The man is dead. Enlightened opinion in the United States has already come to regret this happening. General MacArthur may have few points in common with Julius Caesar, but it seems likely that his admiring biographers will experience the same difficulty in dealing with this episode of his career that the biographers of Julius Caesar have had in dealing with the episode of Vercingetorix, the great Gaulish patriot, strangled in a dungeon after being brought by Caesar to Rome a prisoner at the end of the Gallic War. Already, the accepted view of the hanging of General Yamashita is that it is one of those regrettable happenings which will occur while passions remain

inflamed after a fierce war, and rational judgment is still paralyzed by propaganda.

There remain, however, a few incidents which, to some extent, can be remedied. So long, for example, as Admiral Raeder survives his captivity his case remains open to redress. So long as he remains in prison serving a savage sentence which almost no one now pretends is defensible, it is impossible to dismiss this matter as a deplorable incident of a period which is now over and past. Admiral Raeder's trial and condemnation are, indeed, ineffaceable facts of history, but his detention in prison is a continuing but rectifiable wrong.

When King Sapor of Persia ordered a bas-relief to be cut on a cliff near Persepolis portraying himself mounting his horse from the back of a captive Roman Emperor, he wrote himself down for all time as a hopeless barbarian. The achievements of which he was so proud are obscured by his treatment of the unfortunate Emperor Valerian. It is likely that future historians assessing the present age will attach importance to the fact that the following paragraphs were published without arousing public disgust and shame:

On the arrival at Spandau Prison from Gatow Aerodrome in a closely guarded lorry, Admiral Raeder, Admiral Doenitz, and five other prisoners were immediately stripped, made to bathe, medically examined and given drab prison garb, second-hand grey work-clothes and a skull cap. Raeder and two others will know only this garb for the rest of their lives. Each was allowed to take into his cell only a family photograph. (*The Evening Standard*, July 5, 1947).

The British, Americans and French are to ask the Russians to agree to the transfer of Raeder, Doenitz, Hess, Neurath and three other prisoners from Spandau Prison because these Big Seven war criminals are occupying badly needed space in a prison made to hold 700.

A report yesterday, at a meeting of the Kammandatura Deputies, said that the Seven have been given Class II rations (2,000 calories a day). The Russians say that they should have only Class III rations (1,608 calories a day).

The prisoners are said to have lost between 10 and 40 lbs. since entering gaol. (*The Daily Mail*, April 22, 1948).

As a commentary on these paragraphs, it should be added that, in November, 1949, the prisoners were visited by Dr. Gordon Q. Vancil, an American eye-specialist, who reported that he saw, or was permitted to see, no specific instance of ill-treatment. But, on the question of the severity of the pun-

ishment being inflicted, the doctor observed: "I can express what I think in five words: I would rather be dead."²

For years, the most stringent precautions prevented any details of the treatment accorded to the victims of the Nürnberg war-trials from reaching the outside world, once the gates of Spandau Prison had closed behind them. As a consequence, the comfortable belief developed and long persisted that a sentence of imprisonment imposed on a prisoner of war, charged and convicted by his captors as a war-criminal, would in practice be very different from a sentence of imprisonment imposed on a real criminal convicted by a court of law. The objects of a war-trial are essentially political; providing that publicity can be avoided, these objects would be completely served if the condemned person, having been ceremoniously marched through the main gate of the prison, was allowed immediately afterwards to walk out at the back on parole. At the most, it was widely felt, imprisonment in such cases would amount to nothing more serious than nominal detention.

This widespread belief was supported by the argument that, since the Nürnberg war-trials differed so fantastically from normal, judicial trials, consistency demanded that they should differ also in their outcome by the imposition of some unreal, make-believe penalty. As we have seen, the prisoners at Nürnberg were officially described by their captors as "major war criminals" before even being charged, and throughout the proceedings this "Alice-in-Wonderland" atmosphere persisted. It was confidently expected that this air of unreality would follow them to their place of detention at Spandau.

In a sense, popular expectations have proved justified. The prisoners have indeed continued to exist in a world of pure make-believe. On the other hand, they have never for an instant been permitted to escape contact with the harshest realities. Recent disclosures have confirmed that at Spandau buffoonery and brutality have remained mixed in approximately the same proportions as at Nürnberg. The prisoners confined in Spandau are Walter Funk, former Minister of Finances; Albert Speer, former Minister for Armaments; Baldur von Schirach, Nazi Youth leader; Konstantin von Neurath, former Foreign Minister; Rudolf Hess, third in rank among Nazi leaders; Admiral

² *The Sunday Despatch*, November 27, 1949

Karl Dönitz, former Commander of the German Navy; and Admiral Erich Raeder.

To prevent seven elderly gentlemen—most of whom are over seventy, one is insane, two are invalids and one is practically blind—from overcoming their numerous, heavily-armed guards, tearing their way through the massive prison walls and outdistancing their pursuers, an enormous fence of barbed wire, so elaborate that it might have been designed by Alice's White Knight, has been erected around the prison, which is electrified by a high tension current at night and brilliantly illuminated by powerful searchlights. As an additional precaution, every inch of this fence can at any moment be swept by a storm of bullets from carefully planted machine gun nests manned by dauntless warriors. Every fifteen minutes during the night a light in each of the cells occupied by the "Big Seven" is turned on so that the guards can feel assured that the captive in their charge has not slipped through the keyhole of the heavily barred cell door.

As a demonstration of an unshakable political unity which never existed, the four Great Powers which carried out the Nürnberg war-trials agreed to take turns in guarding the prisoners, each Power providing guards for one month. It has been disclosed that when the Americans, the British and the French are in charge, this absurdly frequent periodic illumination of the cells during the night is carried out with a darkened bulb, but when the Russians are in charge they insist that the prisoner's eyes should be dazzled every quarter of an hour by an unshaded light. This month in every four during which the prisoners are in Soviet custody has served to provide them with a periodic nightmare of harsh treatment; in particular, the meagre rations normally ordinarily supplied to them are reduced by the Russians to a point insufficient to support life. Before, however, this reduction has had time to lead to the inevitable and merciful result of release by death, the prisoners pass out of Russian hands and are again restored to health by a sufficient diet. It is said that the Americans, when in charge, make an effort to provide a particularly nourishing diet to enable the prisoners to survive the ordeal which the regulations condemn them to endure for one month in every four.

At all times, however, the prisoners are subjected to numberless idiotic restrictions, deprivations, and indignities. Once every two months each prisoner is permitted one visitor who,

after being carefully searched, is only allowed to speak to him through a double-mesh wire curtain for precisely fifteen minutes. Every word spoken is carefully taken down in shorthand and no doubt scrutinized later for traces of evil intent. The slightest reference to a forbidden subject or a gesture of any kind is penalized by the interview being instantly cut short, the prisoner hurried back to his cell, and the visitor expelled from the prison. A prisoner is permitted to send out letters to a total not exceeding twelve hundred words per month. Apparently, the Mad Hatter himself has secured employment as censor in Spandau Prison. *Die Strasse* of October 15, 1950, published a photostatic copy of a letter written by Admiral Raeder to his wife. Approximately half this private message had been obliterated with scrupulous care by the censor. Since his condemnation, the Admiral has been deprived of all books and newspapers; he has no more knowledge of what is going on in the outside world than had Robinson Crusoe on his desert island. His letters, however, are rigorously censored in order to maintain the fiction that he is a monstrous criminal who, but for the sleepless vigilance of his captors, would throw mankind into anarchy by some observation on current politics!

Semi-starvation; deprivation of sleep; frequent man-handling; petty tyranny—by reference to the standards long accepted in civilized countries, it would be hard to justify such treatment of a serious criminal, convicted of a real crime by a real court of law. But it will be recalled that this treatment is now being endured by a man who, it is now admitted, is entirely innocent even by Nürnberg standards. No personal turpitude has ever been alleged against Admiral Raeder, and since the previously mentioned disclosures of Mr. Winston Churchill in his authoritative book, *The Gathering Storm*, it can no longer be maintained that he was even guilty retrospectively of one of those *ersatz* crimes manufactured for the purposes of the Nürnberg war-trials. But no disclosures, however authoritative, can bring relief to Admiral Raeder. He has ceased to be a human being and has become an abstract symbol of a political unity which never in fact existed; his fate is governed by an international agreement between parties who have since agreed to differ on every conceivable subject.

Responsibility for this atrocious situation is so widely spread among so many persons and groups of persons that no one feels any personal responsibility. The lawyers blame the

hypocrisy of the politicians, the politicians blame the blundering of the lawyers, and those in charge of the prisoners plead that they are only carrying out instructions which they have no power to alter or terminate. Everyone blames the Soviet authorities and the Soviet authorities disclaim all guilt on the ground that the prisoners, as active opponents of Communism, thoroughly deserve their fate.

What will probably become known collectively as the Nürnberg-Spandau Episode is likely to be intensively studied by future historians since in no other situation or circumstances of modern times can be found so clearly that unique blend of callous brutality and humorous make-believe which is, perhaps, the outstanding characteristic of our age.

After every war a reaction sets in sooner or later. Events no longer appear in simple black and white, the dark crimes of one side being contrasted with the spotless virtues of the other. Seen in perspective, the importance of the issues shrinks rapidly until they are seen to be out of all proportion to the sacrifices demanded. Facts suppressed during the conflict lead, when disclosed, to startling and unwelcome conclusions. A general weariness of the whole subject develops, which leads ultimately to a disposition to dismiss it from mind with the reflection that there were, no doubt, faults on both sides.

In the case of the war which terminated in 1945, the usual urge which sets in after every war to bury the past in oblivion was strengthened by the gradual recognition of the fact that the peoples of Europe could no longer afford to indulge in the luxury of ancient feuds and grievances. A third of Europe has been swallowed up by Asia and the shadow of the Red Army hangs menacingly over what still remains free from Soviet domination. In a speech in the Commons as early as October 28, 1948, Mr. Winston Churchill declared: "Revenge is, of all satisfactions, the most costly and longdrawn out; retributive persecution is, of all policies, the most pernicious. Our policy should henceforth be to draw the sponge across the crimes and horrors of the past and look for the sake of all salvation, towards the future. There can be no revival of Europe without the active and loyal aid of Germany."³

³ Despite much talk about freeing war criminals, even by the Russians, in the late summer of 1953, and the release of some, it was evident that there would be no general amnesty. The freeing of war criminals seems likely to go on steadily and quietly, with as little publicity as possible, in order that the judges may save face and that no opposition be aroused in the press.

This warning, which he has since frequently repeated, shows that Mr. Churchill, himself, is not immune from what he himself has called "the process of belated conversion to the obvious." Few, indeed, are interested in abstract justice, but it has become obvious that abstract justice has become linked with self-preservation. Not since the Mongol invasion, 700 years ago, have the nations of Europe been faced with the possibility of an Asiatic conquest. Unpalatable though it may be, it is clear their only hope lies in their being able to enlist the support of the European nation which, as recently as 1942, hurled back single-handed the armed might of Asia to the Volga.

Even in France, the necessity of enlisting the willing support and cooperation of Germany is becoming recognized. The gravity of the situation is not denied. In the opinion of military experts, the Red Army could reach the Channel Ports and the Pyrenees in three weeks or less. It is agreed that London could be laid in ashes by a bombardment from Calais with rocket missiles of the type used by the Germans in the last stages of the late war, a type of weapon which has recently been greatly improved by Russia. Mr. Churchill has repeatedly expressed the opinion that, but for the fact that the United States was long in sole possession of the atom bomb, Europe would before now have been overrun by the Red Army.

The expression of this opinion is significant because the speaker would certainly not have made it unless he had felt compelled to do so. Mr. Churchill's main claim to fame is the assumption that he saved his country from a German occupation after the downfall of France in 1940.⁴ But it was only a fortunate chance that the Americans succeeded in mastering the secrets of atomic fission as early as 1944. Mr. Churchill could not, in 1940, have foreseen that their efforts to make an atomic bomb would succeed so quickly, or, in fact, succeed at all. Had the task of overcoming the enormous technical difficulties taken only a short time longer, it now appears that Mr. Churchill's successful defiance of Hitler in 1940 would

⁴ From Captain Liddell Hart's discussions with the German generals after the war, it is clear that, after the collapse of France and the withdrawal of the B.E.F. from Europe, the conquest and occupation of Great Britain formed no part of Hitler's plans. See Liddell Hart, *German Generals' Talk*, New York: Morrow, 1948, p. 135. The great ambition of Hitler's life was to act the role of European champion against Communism. Probably the only demand which he would have made on Great Britain and France in July, 1940, was that his rear should be secured during his projected crusade against the Soviet Union.

merely have preserved Great Britain for a far worse fate a few years later. An occupation by the Red Army in a third world war would be an incomparably more frightful ordeal than an occupation by the *Wehrmacht*, which Hitler never really wished to bring about. In short, it now appears that Great Britain escaped the more ominous consequences of Mr. Churchill's steadfast defiance of Hitler, in 1940, merely through an entirely unpredictable stroke of luck.

As a result of the usual reaction which follows a war, combined in the present case with a belated conversion to the obvious fact that European unity had become an imperative necessity, the opinion has rapidly gathered strength in Europe and the United States that, the sooner the unhappy past is buried in oblivion, the better. But those holding this opinion are rendered inarticulate by the aftermath of the war-trials which followed unconditional surrender. Not only is it obviously futile to talk about European unity when half Western Europe is mounting guard over the other half, but it is absurd to expect that the Germans will display the spirit which so recently took them to the Volga, while some of their most respected leaders are detained in prison dressed as convicts, on the ground that they failed to comply with a code with which no British, American, or French general would dream of complying. Professions of goodwill are left unsaid from a reluctance to appear hypocritical.

Subconsciously, some may feel that it is regrettable that, contrary to ancient practice, such men as Admiral Raeder, Field Marshal Kesselring and Field Marshal von Manstein were not included in the general massacre which Stalin proposed at Teheran. When Lady Macbeth observed to her husband, "A little water clears us of this deed," she, no doubt, had in mind not only the physical potency of water for removing blood-stains but also the mystical potency attached by Christianity to water in the shape of tears for washing away the guilt of even the most abominable crimes. With King Duncan in his grave after life's fitful fever sleeping well, she could feel reasonably confident that all would be quickly forgiven and forgotten. She could not be required to bring the dead man back to life. But her situation would have been much less simple had she been so ill-advised as to leave poor Duncan languishing in some dungeon beneath the moat of Dunsinane Castle. Even the most accommodating father confessor would have felt bound

to suggest that her professed change of heart should be evidenced not only by tears but by the release of the victim.

In passing, it may be observed how remarkably the play *Macbeth* portrays in dramatic form one aspect of the recent trend of events. In fact if, as the scientists cheerfully assure us, few written records are likely to survive the coming war waged with atomic weapons, and if, in those days, one surviving copy of this play, alone of all Shakespeare's works, is rescued from some heap of debris, it is not unlikely that the critics will pronounce it to be a satire on the decade 1936 to 1946. The play commences with Macbeth coming to what was, at least in the opinion of his wife, a splendid decision. "*Things bad begun make strong themselves by ill,*" neatly summarizes the process by which "the most uncivilized means of warfare that the world has known since the Mongol devastations," (to quote again Captain Liddell Hart) culminated for the time being in the Dresden holocaust. "*What need we fear who knows it, when none can call our power to account,*" is the stock rejoinder of all war-trial tribunals to the objection that they lack legal jurisdiction. "*Nothing in his life became him like the leaving it,*" describes in a sentence the death of Hermann Göring. "*A tale told by an idiot, full of sound and fury, signifying nothing,*" pictures the immediate future in which, the prophets assure us, mankind will be divided into two groups exchanging with unshakable self-sacrifice and amazing scientific knowledge and skill, volleys of supersonic-guided missiles, with ranges of thousands of miles, charged with atomic explosives and deadly bacteria.

The desire to escape from this nightmare is universal. The first stumbling-block to be overcome is the settlement of the claims for justice of that handful of individuals who escaped with their lives from the ordeal of being tried by a war-trial tribunal. The ideal solution would, obviously, be an inquiry into these convictions by a court of appeal composed of jurists from countries neutral in the late war and appointed by the United Nations. This is the only solution which would do justice not only to those who have been condemned but to those who condemned them. The assumption that such an inquiry would lead, as a matter of course, to the quashing of these convictions is hardly flattering to the tribunals which have convicted. It is at least conceivable that this international court of neutral jurists might, for example, confirm the conviction of Admiral Raeder. It might even take a graver view

of his alleged crime than was taken at Nürnberg! True, in that event, the sentence of life imprisonment could hardly be increased, but the court might well mark its sense of the gravity of his crime by directing that Admiral Raeder should be man-handled more frequently and that he should be garbed in third-hand work-clothes even more patched.

It is clear, however, that there is no hope whatever of this solution ever being adopted. It is not hard to estimate the violence of the opposition which would be aroused. We have seen how Lord Justice Lawrence regarded a mildly-worded comment on the incongruity of Soviet Russia being represented on the Bench at a trial for a crime against humanity, "as an insult to myself, Mr. Justice Birkett and to my Soviet colleagues." The release by the American authorities of several victims of war-trials, whose convictions were particularly contrary to justice and common-sense, threw Sir Hartley Shawcross into an agony of nervous apprehension lest certain great principles laid down at war-trials were in danger of being undermined.

The only alternative solution is that those countries in which the urge to return to civilized standards is strongest should grant a general amnesty to those victims of war-trials in their own custody. The less civilized countries might gradually follow the example thus set them by each, in turn, releasing its prisoners.

The fall of the Roman Empire was followed by the period known as the Dark Ages, "a veritable glacial age of the spirit," as Dean Inge describes it. The destruction of the unity of Catholic European civilization by the Reformation led to a period of religious wars which, at one time, seemed likely to lead to a second Dark Age. Quite unpredictably, however, the Age of Reason suddenly began to dawn. In 1914, a third trend away from what may be regarded as the normal course of human progress began. There were few preliminary warning symptoms and, once started, the descent soon became headlong. Has this movement only passed its initial stages or has it reached a turning point? Mankind's powers of destruction have been enormously increased: if the spirit which reduced Dresden to a heap of ruins, in 1945, became general for any length of time there would soon be very little left to destroy. The return journey along the road up which mankind progressed until 1914 is bound to prove a long one. Time is short and the difficulties are increasing daily. An early start is, therefore, advisable.

CHAPTER X

ORWELLIAN WARFARE

THE subject of future warfare cannot be dismissed with the oft-suggested consolation that what appears most certain rarely seems to happen. The question to be decided is no longer whether it is probable that wars will continue to break out from time to time in one part of the world or the other, as they have done in the past, or whether it is more likely that an epoch of universal peace will soon show signs of dawning. During the thirty years which have passed since the peace-makers wrangled at Versailles as to the best method of abolishing war for all time from this planet, the essential nature of warfare has been changing, with consequences which may prove far-reaching. Developments have become possible, and even likely, which would have been inconceivable in 1919.

In 1949, the English novelist, George Orwell, published in his novel, *Nineteen Eighty-four*,¹ a brilliantly worked-out forecast of the developments which, in his opinion, were to be expected during the latter half of the twentieth century. The picture of the future which Orwell presents resembles neither that of the optimists, who forecast a world of universal contentment and peace, nor that of the pessimists, who predict a world depopulated and devastated by atomic bombs and such like horrors. Basing his views on developments which have already taken place, Orwell dismisses the popular opinion that, ultimately, warfare is bound to disappear as a relic of barbarism. On the contrary, he believes that warfare will shortly become an essential feature of human society and a permanent instrument of political policy. But it will be warfare totally different from the warfare of the first half of the twentieth century. There will be no mass-slaughters of combatants, as on the Somme in 1916 or mass-bombings of civilians as at Dresden in 1945. Future warfare will be continuous. It will be waged, of course, for a purpose but not for a purpose which would be served by victory. Little or no actual fighting will take place, but from time to time, the enthusiasm of the masses, at the mercy of emotional engineering, will be raised to fever heat by

the news of great victories, or their industry stimulated by fear arising from the news of great defeats. A perpetual war economy will be maintained.

Before examining the details of the society pictured by Orwell in *Nineteen Eighty-four*, it is necessary to glance briefly at the changes in the nature of warfare which have already taken place. How far are his speculations supported by facts?

It must again be stressed that the reversion to primitive practice which has set in during the last few decades has not been limited to the disposal of prisoners taken in war. The re-adoption of the practice of either putting prisoners to death after a mock-trial or after a war-trial, or of using them as slave labor, is only a conspicuous part of a general trend. Probably more far-reaching in its consequences is that the technique of government is gradually becoming more dependent on war: economic motives for war have resumed their former paramount importance but in a new framework.

Until very recently, states went to war for a wide variety of motives. One of the most common of these motives has always been the hope of winning economic advantage at the expense of a rival. But recourse to war has never been considered as likely, in itself alone, to bring any general economic advantage, since it inevitably entails wasteful expenditure and dislocation of trade. The adoption of a war economy was regarded as an unwelcome step unavoidably attendant upon the conduct of a war. Now, however, there are grounds for holding that the reverse has become true. Rulers are subject to the temptation to embark on war in order to provide a pretext to adopt a war economy for political as well as economic reasons.

The question whether or not the problems of the present day will gradually resolve themselves so that an epoch of universal peace can dawn is obviously a question likely to be influenced by the discovery that, under modern conditions, a people at war—or a people which considers itself in a state of war—is an easy people to govern. War psychology facilitates the retention of political tenure.

This discovery seems to be changing the essential character of war. The distinction between war and peace is gradually fading away. Already, it has become hard to say whether certain states are at peace or at war with each other. On the one hand, their armed forces are not in conflict. On the other hand, they have adopted a war economy; all their resources are mobi-

¹ New York: Harcourt, Brace, 1949.

lized to resist an attack; and no secret is made by them of the identity of the enemy whose attack is feared—on the contrary, this “enemy” is persistently reviled and traduced. On this subject, Professor John U. Nef, usually so restrained, feels compelled to observe: “Before 1939 representatives of nations had begun to talk to each other during a period of nominal peace in words and in a tone which earlier Western statesmen would hardly have ventured to use even in time of war.”²

If war and peace are destined shortly to become indistinguishable, the problem of how war can be abolished, as it presented itself to the peacemakers at Versailles in 1919, will soon cease to exist. It is necessary, therefore, to consider briefly how this remarkable development has come about.

In the very earliest times, the economic factor was the only factor producing warfare. As we have seen, it is in the highest degree probable that the first wars took place in the remote past when a change of climate forced the inhabitants of a certain area to emigrate. In prehistoric times, Europe underwent a succession of Ice Ages, separated by interglacial periods during which the climate alternated between semi-tropical, temperate, moist and arid. Inevitably, the onset of each ice age produced a succession of miniature wars as the wandering groups of hunters living in the lands threatened by the advancing ice fields were compelled to trek southward in search of new hunting fields, forcing those in possession to seek other hunting fields, and so on in an ever-widening circle. In historic times, the gradual drying up of wide and populous areas in Central Asia led to periodic migrations and invasions of the neighboring countries. In the earliest times, warfare was simply a struggle for survival: the combatants were compelled to fight by the economic circumstances in which they found themselves.

With the establishment of settled communities dependent on agriculture, economic necessity ceased to be the sole generator of warfare. The city states of the Nile and Euphrates Valleys indulged in spasmodic warfare with each other, rarely from necessity, but from a variety of motives and causes. Just as in Europe in the eighteenth and nineteenth centuries, wars in ancient Chaldea broke out periodically for such reasons as a dispute concerning the possession of a coveted strip of land, the breach of some treaty or understanding, access to raw material,

² John U. Nef, *War and Human Progress*, Cambridge: Harvard University Press, 1951, p. 394.

desire to avenge some past defeat, or the ambition of some able ruler to dominate his neighbors. As in the civil wars of Europe five thousand years later, the objects of warfare seem to have been limited, and the penalties of defeat mainly pecuniary.³ For the same reasons which later operated in Europe, the victors in these civil wars probably rarely derived any lasting benefit from their victories—the disturbance to the economic life of the community more than offsetting any portable loot collected. No doubt, a desire for plunder was generally present in the minds of those who took an active part in the hostilities, but a desire for plunder was rarely, if ever, an admitted motive in such civil wars. In short, warfare in Chaldea three thousand years before Christ was similar in most essentials to warfare in Europe in the eighteenth and nineteenth centuries. The only important distinction which deserves mention is that, whereas Europe was free from the danger of primary warfare after the Turkish Empire ceased to be a menace during the latter half of the seventeenth century, Chaldea always remained subject to devastating invasions by barbarian tribes from the mountains of Persia or by the nomads of Arabia.

Broadly speaking, for five thousand years the motives for secondary warfare remained the same. Rarely can it be said that economic necessity, as distinct from a desire to gain an economic advantage, existed. Occasionally indeed, rulers adopted the technique suggested by the words which Shakespeare put into the mouth of Henry IV, when he counselled his son to “busy giddy minds with foreign quarrels.” Thus, one of the motives inducing Louis Napoleon to join with Great Britain in embarking on the Crimean War was probably a desire to distract the attention of his new subjects from the methods by which he had just made himself their emperor. From the French point of view, therefore, the Crimean War may be regarded as a measure of internal politics, the purposes of which would have been equally well served by a war in alliance with Russia against Great Britain. But examples of wars which can be regarded as even partly internal political measures have been

³ C. H. W. Johns in his *Ancient Babylonia*, Cambridge University Press, 1913, writes;—“The aim of the successful combatant was to preserve his own territory intact and to levy a tribute on the conquered. Such conquests rarely lasted long and resulted in a loose sort of supremacy. In spite of its submission to another city, in having to furnish a tribute of cattle, sheep, corn and goods, a quota of men to assist in war or on public works, or an obligation not to engage in war on its own account, the subject city was autonomous. It retained its own internal laws and exacted its own temple dues and import duties.” p. 27.

very rare: in modern history down to 1918, it is hard to find an example of a state *compelled* to go to war as a consequence of its own internal economic situation.

For five thousand years, warfare between civilized states was regarded as simply a method whereby a state could achieve an object of its foreign policy not otherwise obtainable. Of course, it was generally assumed that economic benefit would ultimately result from the attainment of this object, but no one ever disputed that the immediate consequences of war must be harmful to the national economy. Even Clausewitz, when he defined war as an extension of policy by force, implied that war was a last resort when diplomacy had reached a deadlock. From its invariable effect on a nation's internal economy, Clausewitz's contemporary, the Archduke Charles, described war as "the greatest evil which a state can experience."

Down to the outbreak of war in 1914, the disastrous effects of war were usually minimized by the adoption of the principle expressed by Mr. Asquith's slogan, "Business as Usual." But, in European Civil War No. 8a, it soon became apparent that victory could only be achieved if the entire population could be inspired by a blind determination to win, regardless of the cost. To meet this need the science of propaganda or emotional engineering was expanded. Astonishing results were soon achieved. It was discovered that, by the application of a carefully devised technique, the man in the street could be maintained at will for long periods in a condition of emotional frenzy, paralyzing his reasoning faculties and rendering black indistinguishable by him from white.

E.C.W. No. 8a, otherwise known as "the War-to-End-War," came to an end on November 11, 1918. Officially, on this day warfare on this planet was abolished forever, so far as the peoples of Western Europe and America were concerned. But the war continued in Russia where power had been seized by a small, well-disciplined Communist minority. For the first years of its existence, the Soviet Union had to struggle desperately to survive the attacks of its internal and external enemies. A war economy already existed. From the deposed Czarist régime Lenin and his colleagues inherited a propaganda department working at full blast at the task of convincing the Russian workers and peasants that, somehow, great benefits would ultimately accrue to them if, in the interests of the Czar, Holy

Russia, and Holy Russia's very unholy allies, they would offer themselves cheerfully for slaughter by the Kaiser's armies.

The Russian Communists merely adapted this propaganda machine for use against their White Russian opponents and the latter's foreign paymasters. Within three years, the last attempt to overthrow the Soviet régime by force of arms had been finally defeated and, as the years passed, the danger of a Czarist counter-revolution grew less and less and finally disappeared. But, by this time, a war economy had become an essential feature of the Soviet political system. This system had been evolved not only to withstand plots and invasions but to overcome economic and financial anarchy. The discovery had been made that the masses will work with tireless enthusiasm and endure more cheerfully the greatest hardships and deprivations so long as they continue to imagine that they are taking part in a war effort. It had been the practice in Russia to represent measures to combat famine and to increase industrial production as part of the general campaign being waged against Denikin, Kolchak, and other enemies of the Russian people. When these enemies had ceased to exist, the stability of the régime depended on their place being filled by new enemies. The motive force in the Soviet economic system was the popular enthusiasm the emotional engineers generated by focusing the emotions of hate and fear upon an enemy. An admission that no enemy existed would have entailed a reconstruction of the system so fundamental as to be equivalent to its destruction. Outside Russia, it is generally assumed that the periodic purges and mock-trials, which have become such a characteristic feature of Soviet political life, are designed merely to liquidate political opposition and to silence criticism. Their essential purpose, however, is to provide proof to the masses that they have an enemy against whom ceaseless war must be waged, a war which entails on their part tireless industry and uncomplaining obedience to orders.

A war economy, based on the alleged existence of a national enemy, has thus become an essential feature of the Soviet system of government, not from any deliberate choice but as a natural development from the conditions existing at the time of the foundation of the Soviet régime.

When the Third Reich was established in Germany, in 1933, a war economy was adopted as a matter of course. Hitler's primary object was to free Germany from the chains of the

Versailles Diktat. From the first, world hostility had to be taken into account. As Göring put it, "Guns are more important than butter." Throughout the short existence of twelve years of Nazi dominion, this saying was indisputably true. It may, perhaps, be doubted, however, whether it would have been possible for the Nazi régime to have adopted a peace time economy had the liberation of Danzig been accomplished as peacefully as the liberation of the Rhineland or the union with Austria. Just as in Soviet Russia, political and economic life in Germany had become dependent on the existence of an enemy.

The motive force in Hitler's war economy was the burning indignation, already felt throughout Germany, at the imposition of the Versailles Diktat, after Germany had surrendered on the promise of a just peace based on the Fourteen Points. This indignation was skilfully harnessed by Dr. Goebbels and his colleagues with astonishing results. It not only led to the production of a war machine which, ten years later, cleared the European continent of enemies from the Pyrenees to the Volga, but it led to the rapid solution of a dozen hitherto apparently insoluble economic problems, among them the problem of finding work for some six million unemployed.

While Hitler was busily employed establishing his régime in Germany on the basis of a war economy, across the Atlantic the new President, Franklin D. Roosevelt, was striving to restore American economic stability, shaken to its foundations by the terrible financial crisis of 1929. His solution of the problem was the New Deal. Had he been able to enlist the support of Big Business, it is probable that he would have succeeded, in which case the history of the world during the following twenty years would have been very different. But after Roosevelt's first term of office ended in 1936 and he had been re-elected for a second term, the varied devices of the New Deal had failed to banish the spectres of over-production and unemployment. In 1938, there were still ten million unemployed and the relief expenditures in total were higher than in 1933.

It is possible to claim that Franklin D. Roosevelt was the first statesman in history to realize that such economic problems as over-production and unemployment could be most readily solved in a modern state by the adoption of a war economy, though he had vigorously condemned any such procedure in a speech given at Buenos Aires on December 1, 1936. Stalin and

Hitler had a war economy more or less inevitably thrust upon them by the heritage of international affairs. Harassed by strikes and the opposition of business interests, and obstructed by the Supreme Court, which, Roosevelt declared, still lived mentally "in the horse and buggy days," it may well be that his thoughts turned with longing to conditions in which emotional engineering could function most effectively. Now emotional engineering can function at top efficiency only in a state of war, since the first and essential step towards the application of this technique is the focusing of the hates and fears of the masses upon an enemy. The selection of an enemy thus became for him an economic necessity. Once this had been done, Roosevelt's difficulties would be swiftly overcome as part of the general war effort.

It is vain to seek for any complete proof in his writings or speeches that Roosevelt reasoned out the matter along these lines. As a result of their experience in the War of 1914-1918, the American people had become filled with an unshakable determination never again to become involved in another European civil war. In response to an overwhelming public demand, the Neutrality Acts of 1935-1937 had been belatedly passed for the express purpose of preventing any pretext for intervention again arising. As a consequence, to the very last Roosevelt had to keep his intentions to himself. He was compelled, as he himself put it, "again and again and again" to pledge his word that, on no account short of actual attack, would he permit the United States to become involved in another world war. In 1940, he was elected for a third term to the presidency by outbidding his opponent in the vehemence and fervor of his pledges to preserve American neutrality—a truly remarkable achievement considering that for the previous three years he had done everything in his power to rally, encourage, and revive the opposition to the Axis Powers, even to the extent of presenting Great Britain, after the downfall of France, with a vast quantity of small arms, airplanes, and fifty American destroyers.

Whether or not as a result of a reasoned resolve, it is unquestionable that, not later than 1938, Roosevelt adopted a design for war.⁴ The details of this design are no longer secret: how Roosevelt carried out his purpose with unparalleled skill, per

⁴ On this see, especially, F. R. Sanborn, *Design for War*, New York: Devin-Adair, 1951, Chap. III.

sistence, and audacity can now be studied in several well-documented books.⁵

Here it is sufficient to observe that for Roosevelt's purpose, the Japanese Empire served just as well as the Third Reich as a focal point for his emotional engineers. Failing in his efforts to provoke Hitler into hostile action, Roosevelt adopted an actively aggressive policy against Japan, culminating in July, 1941, in an order freezing all Japanese assets in the United States and an ultimatum ending diplomatic negotiations on November 26, 1941. But, even before hostilities had started in Europe, he had succeeded in bringing about what would now be called "a cold war" with Nazi Germany. This "cold war" necessitated American re-armament, and the flood of government orders for munitions and supplies, combined with orders from Europe for war material and food stuffs, quickly solved the problems of over-production and unemployment. Incidentally, of course, they saved the President's waning political fortunes and those of the Democrat Party.

The objection may be made that American intervention in the European civil war, which broke out in 1939, offered no final solution of any of Roosevelt's economic problems. It is probable that, being the supreme opportunist that he was, he was quite content to solve his problems for the moment and to leave their final solution to his successors. It is also possible that his personal contacts with Stalin and the other Soviet leaders convinced him that the Communist crusade against Capitalism would re-commence, as soon as the Axis Powers had been defeated. Must it be assumed that it was beyond his ability to realize that the Soviet economic system depended on the existence of an enemy, and once "Fascism" had been eliminated, "American Imperialism" would be adopted to serve this necessary role in the Soviet scheme of things? The Englishman, William Joyce, the Lord Haw-Haw of German propaganda broadcasting, constantly stressed the fact that even a child could realize that a war between the United States and the Soviet Union would be the inevitable result of Germany's defeat.

⁵ The reader is referred to C. A. Beard, *American Foreign Policy in the Making*, New Haven: Yale University Press, 1946; *President Roosevelt and the Coming of the War, 1941*, New Haven: Yale University Press, 1948; F. R. Sanborn, *Design for War*, New York: Devin-Adair, 1951; W. H. Chamberlin, *America's Second Crusade*, Chicago: Regnery, 1950; J. T. Flynn, *The Roosevelt Myth*, New York: Devin-Adair, 1948; and C. C. Tansill, *Back Door to War: The Roosevelt Foreign Policy 1933-1941*, Chicago: Regnery, 1952.

Whether this development was foreseen by Roosevelt or not, friendly cooperation with the Soviet Union did not long survive the conclusion of hostilities. The victors, indeed, gathered at Nürnberg amicably enough "to put to death their enemies in Germany" (to quote once more Lord Justice Lawrence), and the congenial work of removing all portable wealth in the occupied territories was carried out without serious friction arising. Long before this work was completed, however, the Soviet emotional engineers had switched their propaganda machine from the subject of "Fascism" to "Dollar Imperialism," and the Russian masses patiently resumed their labor for the new war effort. By 1948, all hope of a lasting understanding, inspired by mutual trust and esteem, had vanished—assuming that it had ever been genuinely entertained by either side.

A "cold war" gradually broke out exactly on the lines predicted by Orwell. No actual fighting, indeed, took place between the armed forces of the combatants, but the campaign of vituperation on each side soon exceeded in violence all previous records in peace-time. No issue existed between the combatant in the form of a desire to annex territory, avenge a past defeat or to establish some claim of right. On the other hand, the spectre of Dollar Imperialism, now armed with the atomic bomb, served the necessary function of providing "an enemy" for the Soviet economic system, and the spectre of Communist aggression, by bringing about rearmament, guaranteed the United States against the dangers of over-production and unemployment. Outside the U.S.A. and the U.S.S.R., the emergence of an Orwellian pattern of life has been received with general satisfaction. So long as it continues, the nations of Western Europe are assured of an indefinite continuance of American bounty. The necessity of providing the armed forces of these European nations with a backbone of troops who *will* fight, has entailed pressing invitations to Germany to join with her neighbors for the purpose of self-defense. Spain is no longer treated as an outcast for the crime of having repressed a radical revolution some fifteen years ago. To prevent her falling under Soviet influence, Japan has actually been granted honorable terms of peace. The Chinese Communists embrace the system, for it has enabled them to gain control over China. They also share the Soviet ideology.

Since George Orwell wrote his memorable book in 1949, a war broke out in Korea which, to the Armistice at least, conformed in all respects to the pattern of warfare predicted by him. Each side loudly charged the other with being guilty of aggression, that is to say, of having committed, in the pompous phrase of Nürnberg, "the supreme international crime." At the same time, each side realized, by the mental process which Orwell labels "doublethink," that this war was rendered ultimately inevitable by the absurd arrangement come to in 1945, whereby Korea, for over forty years previously a prosperous Japanese province, was split in two, one half indoctrinated with Communist, and the other half with anti-Communist ideas. Of the real combatants, the U.S.A. and the U.S.S.R., the latter was not engaged in the fighting at all, and the former only to the extent of a small fraction of its strength. It was within the power of either side to bring the campaign to a swift conclusion, the U.S.A. by exerting its full strength, and the U.S.S.R. by intervening with temporarily overwhelming air and submarine strength from Vladivostok. But such action by either side would have resulted in a world war which neither side, for the time being, desired. Both sides realized that a military victory was, in the circumstances, unobtainable: each realized that the campaign must ultimately end in a stalemate and a compromise, when the struggle would be transferred to some other part of the world. Had one side or the other achieved a military triumph of pre-Orwellian warfare, a Waterloo or a Sedan, it is doubtful whether Washington or Moscow would have been the more disconcerted. Neither side desired an early termination of the struggle which provided temporary economic prosperity and unlimited material for hate propaganda. So long as it continued, there would be no occasion to seek for reasons for maintaining a war economy.

The most illuminating episode of the campaign in Korea was the dismissal of General Douglas MacArthur by President Truman in May, 1951, arising from the former's insistence that the campaign must be pushed on to a decisive victory and be extended to China in view of the intervention in the struggle of Chinese Communist "volunteers." On this subject, Dr. Harry Elmer Barnes observes:

The MacArthur affair cannot be understood in any fundamental way except in terms of "Nineteen Eighty-four" concepts. Both

MacArthur and Truman were right and logical in the light of their sharply contrasting assumptions.

General MacArthur thought in terms of the traditional soldier who believed in fighting an all-out military war against a foreign enemy who should be defeated or destroyed as soon as possible and by strategic methods. Within this framework of thought, the only victory is a military victory and indeed there can be no substitute for it. In the light of such assumptions MacArthur's proposals made complete sense, and his exasperation with President Truman and Secretary Acheson was fully justified. What he did not understand was that war had been transformed and was now governed by "Nineteen Eighty-four" considerations instead of traditional military strategy.

President Truman and his advisers were fighting the limited (phony) war of the "Nineteen Eighty-four" pattern. A foreign nation or nations are an enemy, only in formal fiction. The real enemy is forces and factors within the boundaries of the nation-partisan competition and economic depression. In such a war, the President and his party were winning a victory every day, even when our forces were being routed temporarily. So long as Democratic tenure seemed assured and the depression was postponed, "victory" was constantly at hand. The worst possible defeat would have been a quick and decisive military victory over the North Koreans and the Chinese. This would have ended the emergency, weakened the Democrats and threatened us with abysmal depression. This kind of a permanent victory was hardly one which an old-line soldier could comprehend.

The dismissal of MacArthur brought to an end, for the time being, an epoch of military history and patterns which had endured for at least six thousand years. It was President Truman's misfortune to have had in command in the Far East a traditional soldier. All would have gone smoothly if he could have entrusted the Korean command at the outset to one of his political Pentagon generals who fully understood the transformation in warfare that had taken place since V-J Day.⁶

It is too early as yet to say more than that the war in Korea has developed in its initial stage along the lines predicted in *Nineteen Eighty-four*. Whether it will reopen and proceed along these lines is a matter for speculation. Warfare has unquestionably undergone recently a fundamental change, but this change may be only a temporary phenomenon. A reversion may take place to warfare conducted in accordance with rules that is to say, to civilized warfare as it evolved in Europe towards the end of the seventeenth century. Or, warfare may die out altogether as an anachronism repugnant alike to the

⁶ "A Realistic Approach to the MacArthur Affair," privately printed, 1951.

common sense and humanity of modern civilized man. At the moment, however, there is no indication whatever of a trend in either of these directions, but a very marked trend in the direction predicted by George Orwell. An attempt to forecast the developments which the future of warfare may have in store may fittingly conclude, therefore, with a brief outline of what exactly Orwell predicted.

It is interesting to contrast the social system described in *Nineteen Eighty-four* with that described in *Brave New World*, a book written only seventeen years before. In spite of his parade of cynicism, Aldous Huxley was, when he wrote this book, still very much subject to the sentimental illusions of the Versailles would-be peacemakers. He assumed that, after a few decades of internal disorder, a supreme world state would be established—a world state which in most respects would have won the unqualified approval of H. G. Wells. Although the system of society which Huxley predicted repels many as inhuman in its scientific efficiency, yet it is designed to produce contentment in all classes of the population. Everyone is conditioned to be happy doing the work allotted to him: everyone is a cog in the economic machine which functions without material waste or human suffering. Anti-social conduct is corrected by a course of re-conditioning. Authority is enforced with a minimum of violence. Cruelty is never resorted to—gratuitous cruelty has become a totally forgotten conception.

The social system described by Orwell in *Nineteen Eighty-four* is in almost every respect the exact opposite of all this. In place of the supreme world state imagined by Huxley, he maintains that, from the present international situation there will emerge three super-states, *Oceania*, comprising the Americas, Australasia, South Africa and Great Britain; *Eurasia*, comprising the whole of the modern U.S.S.R. together with Europe; and *Eastasia*, comprising China, Japan and Southeastern Asia. Each of these three super-states will be entirely self-contained and self-sufficient. In one combination or another, they will be permanently at war with each other, but otherwise no contact of any kind will exist between them. And even this contact will be slight, since the occasional actual fighting will be carried out by relatively small forces of highly-trained specialists. To quote Orwell: "In the centers of civilization war will mean no more than a continuous shortage of consumption goods, and the occasional crash of a rocket bomb which may

cause a few score of deaths."⁷ A citizen of one of these super-states would never even see a citizen of either of the other two, except when he saw a batch of prisoners of war (in chains in accordance with the barbarous precedent laid down in 1946 in the cases of Field Marshal Keitel and General Jodl) being conveyed to execution as war criminals.

In the society portrayed by Orwell, the standard of life of the civilian population is very low, lower even than at present in Russia: consumer's industry is restricted to the manufacture of bare necessities, every other activity being secondary to the production of war material. The warfare is phony, since its object is not to defeat the enemy: its real purpose is to use up the products of the industrial machine without raising the standard of living. It is warfare between combatants "who are unable to overcome one another, have no material cause for fighting and are not divided by any genuine ideological differences." On the other hand, it is neither less blood-thirsty nor more chivalrous than at present. War hysteria is continuous and universal in all these super-states, and such acts as looting, mass-deportations of populations, slaughter of civilians, and the murder of prisoners as war-criminals, are looked upon as normal and, when they are committed by one's own side and not by the enemy, meritorious.

In this one respect, at any rate, the reader may hesitate to accept Orwell's conclusions. If future warfare will come to be primarily a matter of internal politics, why should it be conducted with savagery? If there is no real point at issue between the combatants, why should not the conflict be waged good-humoredly, without passion? Why should the enemy be hated for fulfilling a necessary rôle in the domestic economy of one's own country?

Reflection will show, however, that, on this point, Orwell's reasoning is entirely sound. In old-fashioned warfare there was a simple point at issue,—for example, whether Cape Breton should belong to Britain or France, or whether Silesia should belong to Austria or Prussia. Where both parties in a conflict desire the same thing, it is easy to understand and even to sympathize with the enemy's point of view. In Orwellian warfare, on the other hand, the real intention is to provide the masses with an enemy as an inspiration for a war effort. For

⁷ *Nineteen Eighty-four*, p. 187.

this purpose, a well-behaved enemy is obviously less effective than an abominable enemy, guilty of the foulest crimes. Experience shows conclusively that those who invent propaganda atrocity stories in order to arouse war enthusiasm in the masses, soon come to believe sincerely in their own inventions. Thus, in 1914, when the technique of emotional engineering was being fully worked out, there is little reason to doubt that Lord Northcliffe and his colleagues did not, in the end, believe in the truth of the "Belgian Atrocities." Of course, it necessarily follows that, when it has become universally accepted that the national enemies are infamous criminals guilty of every abomination, it becomes impossible to resist a popular demand for reprisals in the shape of the very acts of which the enemy originally was falsely accused for purposes of propaganda.

In short, war-trials are a characteristic feature of Orwellian warfare. It thus becomes easy to understand why the re-introduction of the practice of putting to death prisoners of war and the gradual adoption of economic motives for warfare, to the exclusion of all other motives, apparently quite distinct phenomena, are really only different aspects of the same general trend which has set in during the last forty years.

All the characteristics of the social system outlined by Orwell are certainly foreshadowed by tendencies, some painfully obvious and some latent, in modern society. On the assumption that developments will continue exactly along the lines which they have followed during the last forty years, it must be admitted that it is more than probable that a form of society will result very similar in essentials to that predicted in *Nineteen Eighty-four*.

George Orwell, however, goes much further than this. He maintains that the form of society which he predicts became inevitable from the time when the invention of machinery and its adoption by industry in the late nineteenth century, followed by rapid scientific and technical progress in the twentieth century, made it apparent that "the need for human drudgery and therefore to a great extent for human inequality, had disappeared." Throughout history, he claims, the ruling classes have relied upon the unequal distribution of wealth to maintain their positions. "If leisure and security were enjoyed by all alike, the great mass of human beings, who are normally stupefied by poverty, would realize that the privileged minority had no function and would sweep it away." In short, a hier-

archical society is only possible on a basis of poverty and ignorance. Orwell's basic contention is contained in the following passage:

The problem was how to keep the wheels of industry turning without increasing the real wealth of the world. Goods must be produced, but they must not be distributed. And in practice the only way of achieving this was by continuous warfare.³

In the past, indeed, alternative methods had been adopted. In ancient Egypt the Pharaohs solved their labor problems by pyramid building, and the same principle was utilized by Roosevelt in many of the projects of the New Deal. In contemporary Britain, Stanley Baldwin achieved the same result by restricting output and keeping the surplus population alive by paying state unemployment relief. Orwell contends, however, that continuous war, whether a cold war or a phony war, is the only satisfactory solution of the problem. Pyramid building and universal relief could not provide the excitement needed to keep the people docile in the midst of austerity.

For the purpose of the present survey, there is no occasion to consider whether Orwell's explanation must be accepted; that the underlying purpose of the existing trend towards the establishment of a permanent war economy and a state of continuous cold or phony warfare is due to a conscious desire to deprive the masses of the fruits of an ever expanding technology." Whatever the explanation may be, there can be no dispute that this trend exists. Some may find it hard to believe that this trend has developed as a result of deliberate discussion and philosophical formulation. In the United States, at least, it is an opportunistic affair, set in motion by that supreme opportunist, Franklin D. Roosevelt, and revived on a large scale by President Truman in March, 1947, when he instituted the "cold war." Though this has not as yet produced much fighting, it has been vastly expensive. Truman has levied more taxes since 1945 than all the Presidents of the United States combined down to 1945. To those who object that, in practice, such a form of society as is described in *Nineteen Eighty-four* could never develop, the answer is that in basic essentials it has already developed. The ruthless regimentation of thought and action described by Orwell has now existed for three decades in Russia, where it has come to be regarded as the normal

³ *Nineteen Eighty-four*, p. 191.

pattern of life. A slow and steady drift in this direction has become apparent in the United States and Britain. Some kind of war—cold or phony—has been adopted by all the major world powers as an essential factor in their national economies.

In one respect, only, is it possible to maintain with any confidence that Orwell's predictions are unlikely to be fulfilled. He assumes that all three super-states which, he predicts, will emerge from the present international situation, will be unconquerable, even by the other two in combination, "*Eurasia* being protected by its vast land spaces, *Oceania* by the width of the Atlantic and Pacific, and *Eastasia* by the fecundity and industriousness of its inhabitants."⁹ Final victory being thus impossible, as the combatants realize, cold or phony war never develops into hot warfare and, thus, can continue indefinitely. Although the present race to discover new and more destructive weapons continues, the purpose of the race has changed—the aim will then be only to provide industry with the unending task of replacing war material periodically scrapped and destroyed as obsolete. All these three super-states, indeed, possess large stores of atomic bombs which they are constantly increasing. Realization, however, that their use would quickly lead to the end of organized society will bring about, by tacit consent, an understanding that atomic weapons should never be employed.

The chief objection to Orwell's views is not that the international setup and public policy which he predicts are too fantastic ever to come about in practice, but that this system, if it did come about, might be so inherently unstable that it could only be a transient phase in human history. Both a cold war and a phony war are always liable at any time to develop into a hot war. Sooner or later, a MacArthur would be bound to arise and insist that this "playing with war" (as Mr. J. M. Spaight would call it) should cease and the enemy be finally crushed. Orwell gives no convincing reason why any of his three super-states would be unconquerable. No doubt, temporarily, some agreement might be reached not to use atomic weapons, such as restrained the combatants in the 1939-1945 War from the use of poison gas. But understandings of this kind only endure as long as neither of the parties to them think that it would be profitable to break them. At any moment

⁹ *Nineteen Eighty-four*, p. 188.

termination without notice might come about by what Mr. Spaight would applaud ecstatically as "a splendid decision." The Nürnberg principle and moral that the losers will hang, in any event, will serve to remove all restraints on warfare observed in earlier wars. No method which might possibly bring victory can safely be ignored.

To forestall this objection, Orwell explains at length that, in addition to their being unconquerable in fact, their conquest, if it could be achieved, would bring disaster to their conquerors. The final triumph of one of these super-states would mean the end of the phony war upon which its own economic system is based. "Only so long as these states remain in conflict, do they prop themselves up, like three sheaves of corn." Self-interest and common sense would, therefore, he argues, prevent a genuine attempt at conquest ever being made.

What reason, however, is there to think that self-interest and common sense are destined to exert, all of a sudden, this predominating influence? The highly civilized and intelligent peoples of Europe during the eighteenth and nineteenth centuries indulged in futile periodic civil wars with each other, self-interest, common sense, and the express dictates of the religion which they professed notwithstanding. According to Orwell, war hysteria will in *Nineteen Eighty-four* be continuous: the prevailing moods, he declares, will be, "fear, hatred, adulation and orgiastic triumph." Hardly a suitable atmosphere, it may be thought, for the exercise of self-restraint based on cold, logical reasoning. Orwell has his answer to this, of course, by pointing out that the hates and fears affect only the masses and the lesser bureaucracy. The top leaders fully realize that the warfare and its attendant emotional engineering are completely phony.

In conclusion, it may be agreed that warfare has recently entered upon an entirely new phase: it is becoming less and less an attempt to overcome an external enemy by force and more and more an instrument of internal political strategy and economic policy. As warfare of this peculiar kind was an essential feature of the social system analyzed and described by George Orwell in his prediction of the future, the present trend in warfare may be conveniently described by saying that warfare is entering upon an Orwellian phase. Finally, since it seems probable that this phase will continue, it may be admitted

that a social system not unlike that predicted by Orwell may ultimately evolve.

On the other hand, there seem to be many reasons for thinking that such a social system might be inherently unstable. Its development, therefore, would merely delay the final catastrophe which would assuredly occur when the inevitable reversion took place from Orwellian warfare to normal warfare, as first practiced in pristine simplicity in the days of old when the Assyrian kings went forth to battle, but waged with atomic weapons and rockets instead of with bow and arrows, chariots and horsemen.

As of today, therefore, it could be reasonably maintained that the greatest danger could well lie in the prospect that Orwell's predictions may *not* be borne out in fact. While present trends would appear to confirm his prognostication as relates to the immediate future, a fact which justly terrifies many realistic observers, there is all too great likelihood that the more remote future may be far worse than the nightmare portrayed in *Nineteen Eighty-four*. As we have pointed out above, there is the potentially far more calamitous possibility that the relatively bloodless cold war may be transformed into a hot war of global proportions and waged with every known agency of destruction. This would surely mean the termination of the greater part of such civilization as we were able to salvage from the second World War.

A statement has been attributed to Albert Einstein to the effect that, if one cannot be too sure just what weapons will be used in the third World War, we can be fairly certain about those which will be used in the fourth World War, namely, something like the fist-hatchets of primitive men. What this would imply for the state of culture, generally, is far more terrifying than existence in an Orwellian system. The real lesson to be drawn from all this is that, if we wish to escape from either the tyranny, intimidation and austerity of a "Nineteen Eighty-four" régime or reversion to the living conditions of the cave men, we must repudiate the cold-war stratagem and imposture of "perpetual war for perpetual peace," and return to national sanity, diplomatic neutrality, and truly pacific internationalism.

CHAPTER XI

THE OUTLOOK

A NUMBER of difficult questions have been touched upon in this survey. Fortunately, the majority of these are of academic interest only: the solution of most of them is of no practical importance to anyone. But the answer to one of these questions is of vital personal importance to every human being now living on this planet.

Are there any grounds for hoping that the retrograde trend in human affairs, which set in some forty years ago, has reached a turning-point and that, from now onward, the course of history will revert to the course along which it had proceeded for centuries?

This question would be easier to answer if there had taken place in the past similar trends from what was considered the natural and inevitable course of human development. An examination of how previous deviations from the normal had arisen and how they had come to an end should provide clues as to what may now be expected.

No even remotely parallel case is, however, to be found. Down to 1914, the course of history and human progress might reasonably be represented in the form of a graph as an ascending line. Such graphs were, in fact, commonly used in school history books. One in the author's possession begins at a point in the bottom left hand corner of the page, marked "Dark Ages." The line then ascends to a plateau covering four centuries, marked "Middle Ages." From here, it rises steeply at a point, marked "Renaissance," and, from there, continues to rise gradually until it shoots upward at a point, marked "Industrial Revolution," and so continues rising, more and more steeply, past points recording various inventions and discoveries such as "Railways," "Telegraph" and "Radium," until the end is reached at the top right hand corner of the page, marked with the ominous caption "Conquest of the Air."

At the time of its production, few historians would have disputed the general accuracy of this graph. Progress was regarded as one of the established laws of nature. It was accepted as self-evident that a man who travelled by train and who lighted his house by electric light must be a superior being to

a man who travelled by stage coach and who relied on candles for illumination. Like contemporary biologists, historians were inclined by their studies to optimism. The biologist studied the gradual evolution of life through the ages, from the time many millions of years ago when the first vertebrate animal became adapted to life on land, down to the final emergence of man, the heir of all the ages. The historian studied the gradual development of civilization through the centuries, from the first primitive settlements in the valleys of the Nile and Euphrates to the complex conditions of modern life. Both appeared equally stories of continued progress, of ceaseless advance.

With this record of the past to guide him, the historian naturally looked forward to the future with confidence. One of Max Beerbohm's cartoons well illustrates his attitude. It shows a shabby ill-nourished figure representing the eighteenth century standing beside a figure representing the nineteenth century, a prosperous-looking portly person with a heavy gold chain across his ample white waistcoat. Both are contemplating in a mirror the future, the twentieth century being represented by a magnified reflection of the nineteenth century but appearing far more prosperous and portly, with an even heavier gold chain across an even ampler white waistcoat. The twenty-first century stands behind, still larger, more portly and prosperous. And so on *ad infinitum* for all the centuries to come.

During the last fifty years, historians have been compelled by hard facts to reconsider this complacent outlook. The war of 1914-1918 is now seen to have been important, not because it led to the recovery by France of the conquests of Louis XIV on the left bank of the Rhine, but because it marked the closing of one of the most clearly defined periods of world history, the period of limited and restricted warfare which had begun two and a half centuries before.

In his recently published book *War and Human Progress*, Professor John U. Nef investigates in detail what he terms "those long-term movements toward and away from bellicose conditions." By reference to a wealth of historical and economic facts, he confirms, in the main, the conclusions reached in the briefer English edition of this book published two years earlier.

In the opinion of Professor Nef, the Middle Ages may be regarded as a period of limited warfare. This limitation he attributes less to the fact that the killing of Christians by Christians was repugnant to the moral feelings of the time

than to the fact that poverty and lack of material resources made sustained military effort impossible.

In regard to the period of unrestricted warfare which followed the Middle Ages, Professor Nef remarks that "it is easier to explain why there should have been so much slaughter and destruction than to explain why there should not have been more." The general use of gunpowder and the improvement of firearms made killing and destruction easier; increased wealth and the development of the mineral resources of Europe made warfare on a large scale possible. By evil chance, as facilities for killing grew, a newly-formed will to kill grew also. The furious hatreds engendered by disagreement concerning the nature and efficacy of the sacraments made killing appear a virtue. As the Victorian historian, J.A. Froude, expressed it, "In the great spiritual struggle of the sixteenth century religion made humanity a crime."

Inevitably, the resulting slaughter and devastation was appalling. That it was not worse Professor Nef attributes to lack of money and material resources usually making impossible a fight to a finish. "Europe," he says, "was saved from destruction by its poverty."

Around 1650, a revulsion set in. A period of restricted warfare gradually dawned. It was destined to survive the terrific upheaval which began in 1792 and to endure until the "Splendid Decision" of May 11, 1940 about which, as we have seen, Mr. J. M. Spaight has expressed himself so lyrically.

The factors which led, in the decades following 1650, to the gradual adoption of unwritten rules for the conduct of warfare by Europeans with Europeans have already been considered in this book. These factors certainly do not exist at the present day. Further, there is no reason to believe that the factors which led to the abandonment of these rules in the years preceding the final repudiation of May 11, 1940, have ceased to operate. In these circumstances, can optimism be justified? Is it possible, for example, to reject the prediction, made so cheerily by Field Marshal Montgomery, that, after the next war, generals on the losing side will, as a matter of course, be tried and hanged? In default of any specific indications to the contrary, how can it be denied that the present long-term movement towards barbarism is likely to continue?

It may, perhaps, be thought that there does not remain much room for further movement in this direction since Admiral

Fisher's dictum, "Hit first, hit hard and hit anywhere" has received such widespread and unqualified acceptance. The only further development possible is that what was done rather shamefacedly from 1940 to 1945 will be done henceforth openly as a matter of course. Precedents already laid down will be given extended application.

Take, for example, what may well come to be the most dreaded process ever devised for the affliction of a defeated people, a process far more lethal in its effects than the crude barbarities proposed in the Morgenthau Plan. The inventors of this process were quite unconscious that it could have any general application: they modestly regarded it as a minor if essential item of the program of vengeance. The process, labelled "denazification," merely provided for the establishment of courts throughout Germany, staffed by German collaborators, with instructions to penalize all found guilty of having supported Adolf Hitler.

It was soon apparent, however, that the process served a much wider purpose than mere revenge. Under the National Socialist régime only those who professed support of the régime were allowed to take any part in public life. Consequently, those charged before the "denazification" tribunals comprised virtually everyone who had taken any part in public life in Germany for the preceding fifteen years. In practice, a charge of having Nazi sympathies amounted to a charge of being public-spirited, in fact, of being patriotic. The trial and punishment of the leaders of a discredited political party, such as took place in France after 1815, would have had little practical importance. But, as a result of the "denazification" process, every city, town and village in Germany became divided against itself by denunciations, betrayals, false charges, blackmail, perjury, and victimization. The only secure defense to a charge of being a Nazi was to claim some act in opposition to Hitler which invariably amounted to an act in opposition to the war-effort. Appalled by the ferocious penalties imposed, which fell not only on the alleged culprit but on his wife and children, many were driven to slander themselves by confessions of imaginary acts of disloyalty and by claims to have always hoped for Hitler's overthrow, that is to say, for Germany's defeat. Patriotism thus became discredited.

Quite unintentionally, the inventors of "denazification" had stumbled across the solution of a problem which had trou-

bled conquerors for centuries. Two hundred years before, in the Age of Reason, Emeric de Vattel had pointed out that the drawback to kicking a prostrate enemy and then turning out his pockets was the lasting resentment this treatment induced in the victim. Win as quickly and unobtrusively as possible, the Swiss jurist had counselled. When you have gained your object by force of arms, be satisfied: never impose harsh conditions; do not flaunt your triumph but rather indicate that the issue was one hardly worth quarrelling about. Otherwise, your enemy will harbor bitterness against you and, at the first opportunity, will attack you so that you will have the task of overcoming him all over again.

The process introduced, in 1945, under the label "denazification" provided a means by which this drawback can be avoided. Obviously, there would be no need for a victor to trouble about the danger of incurring the ill-will of a defeated enemy if that enemy could be so demoralized that no insult or outrage could arouse in him any emotion.

This condition, so greatly to be desired by a victor who proposes to give his natural instincts free rein, can be produced in the vanquished by ruthless application of the "denazification" process. Once unconditional surrender has been obtained, everyone in the defeated state who has held any official post or has taken any part in public life, is charged with supporting, aiding, or abetting the policy which led to the war. It matters nothing what were the political views of the government of the defeated state: the process is applicable whether the government in question was Fascist, Communist, or some professed brand of democracy. The only relevant fact, so far as the victors are concerned, is that this government went to war and lost. By imposing ferocious penalties on the honest and stubborn and by extending leniency to those dishonest or cowardly enough to be willing to admit their country was in the wrong throughout, that section of the community in which the emotion of patriotism is strongest can be turned against itself and discredited. At the same time, by handing over the task of carrying out the process to the countrymen of the victims, a new class of collaborators is created whose lives in the future will depend on their being able to prevent any re-awakening of patriotism in their country.

It is obvious that, if it becomes the practice to impose some form of the Morgenthau Plan upon a defeated people, some

improved version of "denazification" will have to be carried out concurrently. Moral sabotage is an essential accompaniment of economic, industrial, and financial sabotage.

In regard to war-trials, assuming that Field Marshal Montgomery is right in his prediction that the trial and hanging of the generals of the defeated side will become a routine procedure following victory, it is probable that the so-called trial will become a comparatively brief ceremony preparatory to the hanging which, possibly, may develop into a lengthy and elaborate performance similar to the Quaresima introduced by Galeazzo Visconti of Milan in the fourteenth century under whom state executions lasted forty days.

As some counterbalance to these gloomy conclusions, it may be remembered that not the most far-seeing and well-informed onlooker living in 1652 could have foreseen that an epoch of comparative peace and unparalleled prosperity was just about to dawn.

In 1652, the Thirty Years War had indeed just come to an end but everyone knew that it had only ended through the utter exhaustion of both sides. Few regarded the Treaty of Westphalia as more than an armistice. The settlement reached was a compromise which satisfied no one. In the bull *Zelo domus Dei*, Pope Innocent X had denounced the cessation of hostilities in language violent even for a papal bull and it seemed a safe assumption that the war would be resumed immediately one side or the other felt sufficiently recovered. During the last years of the struggle which had depopulated Central Europe by about a third, the last restraints on the conduct of warfare surviving from the Middle Ages had disappeared. As at the present day, the consequences had fallen mainly on the civilian population. The sack of Magdeburg by Count Tilly, for sheer beastliness if not for lethal mortality, deserves to rank with the mass-bombing of the refugees in Dresden. Widespread famine had been the natural result of the repeated plundering of the countryside by the rival armies; the moral degradation of the times may be assessed from the prevalence of cannibalism in some of the worst devastated areas. It was not only in Central Europe that were there ominous signs of a coming complete breakdown of civilization. In France, the revolt of the nobility, known as the Fronde, had just commenced in 1651; it seemed unlikely that the strong centralized government created by Cardinal Richelieu would long survive his death; if another

period of bitter civil war was about to begin in France, the same religious differences which had caused such terrible bloodshed in the previous century still persisted, and there was no reason why France should not fall into the same condition as Germany. Even the proverbially law-abiding English, after six years of civil war, had so far succumbed to the general tendency to violence as to cut off the head of their king, an act at that time quite without a parallel in history. The victorious upholders of parliamentary government were just entering upon an obviously hopeless struggle with the generals of their own army to prevent the establishment of a military dictatorship.

Rendering even more dark the outlook in 1652, the shadow of the Turkish Empire was once more falling across Europe. Having passed through the period of decline which followed the death of Suleiman the Magnificent, the Turkish Empire was showing signs of revival. To a disunited Europe, devastated by civil warfare and distracted by bitter hatreds, this great military empire, covering the whole of the Near East from the Crimea to the Sudan and from Algeria to the frontiers of Persia, constituted a standing menace which always became acute on the accession of an able and aggressive sultan. Barbarians in their methods of warfare, the Turks possessed a highly organized military system and the latest military equipment. Their artillery was the equal of any in Europe and, in the famous Janissaries, they possessed the largest force of disciplined infantry at that time in the world.

If, therefore, it must be admitted that the outlook in 1952 is ominous, it is some comfort to recall that the outlook in 1652 was not less ominous. The dangers which, in 1652, appeared so threatening did not materialize. In 1683, the Turks, indeed, penetrated for the second time to Vienna but, although the French seized the opportunity to attack him in the rear, the Emperor, with the aid of John Sobieski, King of Poland, succeeded in repulsing the last great Turkish invasion of Europe. There was no renewal of the Thirty Years War which proved to be the last of the wars of religion. Military dictatorship in England failed to survive a decade: in 1660, Charles II was invited to return peacefully to the throne of his forefathers. The work of Richelieu did not collapse during the minority of Louis XIV, and France assumed the position of the leading European state, except in military matters, without challenge. Most important of all, a long-term movement began which

finally so regulated and restricted warfare in Europe that a tolerable substitute for European peace was attained.

In human affairs, events often fail to work out in accordance with logical prediction. Those who maintain that experience shows that what appears most certain rarely happens, may have at the present day the best available ground for optimism. But there are qualifications and reservations even here; if ominous predictions and probabilities do not eventuate in fact, it is equally true that rosy prospects and high hopes are equally frequently dashed to the ground by actualities.

In the decade preceding the first World War, there seemed greater ground for optimism than at any previous period in human history. The marvellous advances in science and technology made it possible, for the first time in man's experience, to provide plenty for all in every civilized land. Security and leisure seemed to lie right ahead, with unprecedented opportunities for education and the development of the arts and literature. Social optimism, based on the triumphs of science and machinery, was vividly set forth in the mechanized utopias of H. G. Wells and, above all, in the famous work of the American writer, Edward Bellamy, *Looking Backward*, which was published in 1889, just sixty years before George Orwell's ominous *Nineteen Eighty-four*, which we have dealt with in the preceding chapter. This general social optimism also encompassed within itself great hopes for the elimination of warfare. The peace movement had grown steadily from about 1840. International peace congresses were held with large and enthusiastic attendance. An international peace conference had been assembled at the Hague. Andrew Carnegie was building peace palaces and had founded an Endowment for International Peace. Norman Angell and others were assuring us that another great international war was impossible because of the sheer economic difficulties entailed.

If we now "look backward" to Bellamy's time, we behold with dismay the manner in which all these humane hopes have evaporated. Mechanical development since Bellamy's day has surpassed his wildest dreams, but there is more misery, poverty, and suffering in the world today than at any previous period in human experience. More and more of the potential products of our technology are being devoted to wars and preparations for war. Orwell, rather than Bellamy, appears to be the prophet of the social future, in which the masses will be reduced to

universal poverty, mental intimidation, and cultural bankruptcy. Instead of perpetual peace, we have had the two most devastating wars of all history and seem to be in the initial stages of a third, which may level all civilization in the dust. Incredible as it may seem, even the peace movement itself, as Charles Austin Beard and others have emphasized, was transformed in the fifty years after 1900 into one of the strongest factors making for universal and perpetual war. Turned to the support of premature plans for world government, it has become a chief force lying behind the current world-meddling which, as the great international lawyer, John Bassett Moore, has pointed out, tends to expand every border war into a world war. Andrew Carnegie's bequests for peace, recently supplemented by the vast resources of the Rockefeller and Ford Foundations, have become a main financial buttress of the movement for globaloney and "perpetual war for perpetual peace."

Nothing better illustrates how hell may be paved by good intentions which crumble than the war-trials themselves. No doubt many who supported them were motivated by primitive Mongol demands for the massacre of defeated enemies, by "scientific" Marxian precepts which called for the liquidation of elements that could not be assimilated into a proletarian and totalitarian society, and by a purely vindictive desire for revenge. On the other hand, many sincerely believed that the trial and punishment of men, many of whom had certainly been guilty of ordering or permitting unspeakable and boundless cruelties, would both reduce the prospect of future wars and make any that did take place more humane and restrained.

We have already indicated how futile was this hope. The intended results might, possibly, have been attained had *all* who were guilty of atrocities and cruelties, irrespective of nations, alliances, and distinctions between victors and vanquished been tried and punished. But, when the trials were limited to those of the vanquished who were accused of unparalleled barbarities, it was inevitable that the reverse of the original hopes would take place. During the second World War, even Germany and Russia, despite their mass butcheries in the war in the East, refrained from using such lethal weapons, already in plentiful reserve, as poison gas and disease germs, for fear of possible retaliation. The war-trials, by making it crystal clear that the losers will, henceforth, be subjected to such trials, regarded as aggressors whether they were or not

(it was not emphasized at Nürnberg that England and France declared war on Germany), and be hanged or subjected to long prison terms, whether guilty as charged or not, made it inevitable that all the restraints which still survived the second World War would be thrown to the winds in the third—as even the limited warfare in Korea has demonstrated. Since nothing worse can happen to a national war leader than to be disgraced, tortured, and hanged, if defeated, there is no logical or psychological reason for failing to throw in everything which may promise victory, however lethal and barbarous. Retaliation is bound to follow defeat, in any event. In this way, a juridical procedure, which was designed to discourage war-time brutalities, has resulted in assuring war-time horrors beyond all precedent, and in removing every restraint on such action.

Moreover, the war-trials and punishments have failed utterly to discourage warfare. After the first World War, there was a feeling that, despite all the mistakes of a knock-out victory and a knock-out peace, that conflict might really be a war to end war. There was at least a "twenty-year armistice," growing out of war-weariness. Neutrality legislation was passed to make it more difficult for a people to be swept into war by the passions of the moment. At the close of the second World War even this specious and futile optimism had disappeared. It was suggested that the third World War should be started before the soldiers of the second had been disbanded. Not a few English and American generals recommended that Russia should be finished off while the vast American armament was still in Europe. No terms of peace, just or unjust, could be imposed on the vanquished: so strong was their mutual antagonism and mistrust that the victors could not bring themselves to agree even to attend a conference to discuss with each other what peace terms should be imposed. Ultimately Truman let loose a cold war which may well provide the entry into a hot third World War. This may, actually, have been launched as a result of the Korean War, which was little more than a United Nations-Communist clash over which coalition should control the politics of a small nation. It was even more ludicrous than John Bassett Moore had foreseen, for there was not even a definitive border which was overrun. The 38th parallel was a fanciful line casually and fortuitously decided upon by tired soldiers and diplomats at Potsdam in 1945. The Korean War may prove no less than a train-

ing-ground for the third World War, just as the Spanish Civil War served as a workout for the Fascist and Communist forces that were to clash in the second World War.

The outbreak of the Korean War within five years of the termination of the Second World War had the effect of still further accelerating the process of post-war disillusionment, a process that, during recent years, had been becoming steadily more and more rapid. To illustrate: for at least forty years after the battle of Waterloo the average member of the British public had difficulty in regarding the Emperor Napoleon otherwise than as the "Corsican Monster"; in contrast to this, the slogans of the First World War hardly survived a decade in the United States, and even in Great Britain by 1930 many had ceased to regard the Emperor Wilhelm as an arch-criminal who had been prevented from conquering the earth only by a war to make the world safe for democracy. In the Second World War, events moved so fast that its slogans became obsolete almost as quickly as they were produced. Within a few months of its onset as a crusade to preserve the integrity of Poland, the very existence of Poland was forgotten: at its conclusion, Poland was virtually annexed by the Soviet Union without objection or even serious public comment. The Atlantic Charter was quietly assigned to oblivion as soon as it became apparent that it would not achieve the results attained by the Fourteen Points. After the termination of the Second World War, the process of disillusionment proceeded with unprecedented speed, particularly in Great Britain. The long series of outrages inflicted on British troops by terrorists in Palestine, by Communist irregulars in Malaya, and by nationalist forces in Egypt naturally quickly dispelled the fervid admiration once so loudly expressed in Britain for the similar exploits of the "resistance movements" in France and Italy during the War. The British public reverted at once to the opinion which it had formed during the Irish Sinn Fein rebellion of 1920 on the subject of assassination, arson and sabotage by civilians as a method of achieving political purposes.¹

¹ Two books which appeared late in 1952 made it clear, however, that the spirit of war-time and the Nürnberg Trials was hard to put down and still persisted in certain quarters. These were *Sword and Swastika* (New York: Simon and Schuster, 1952) by General Telford Taylor, who succeeded Justice Jackson as chief prosecutor at Nürnberg, and *In the Nazi Era* (New York: St. Martin's Press, 1952) by Sir Lewis Namier, professor of history at the University of Manchester, England.

By 1952, the only belief of the early post-war years which still survived more or less unshaken was the belief that the Second World War had at least resulted in the establishment of new international standards of justice. As we have seen, as late as March, 1951, the then British attorney-general, Sir Hartley Shawcross, was able, without making himself ridiculous, to put forward a moving appeal that what he called the principles of international justice established at Nürnberg should not be undermined for purposes of political expediency.

This comforting belief remained unshaken until it was reported in July, 1952, that the Chinese Communists had indicated an intention to subject in due course certain of their prisoners of war captured in the Korean campaign to war-trials carried out "in accordance with the principles established by the international military tribunals of Nürnberg and Tokyo." In thousands of homes on both sides of the Atlantic the matter instantly ceased to be an academic problem whether certain more or less worthy or unworthy foreigners had been unjustly condemned a few years before. The anxious relatives of the British and American soldiers, sailors and airmen serving in Korea—and of those in the armed forces who might later be called upon to serve in Korea—had no difficulty in foreseeing what would be the result of war-trials carried out "in accordance with Nürnberg principles." All illusions on this subject instantly vanished. What may be regarded as the obituary notice of the Nürnberg war-trials was pronounced by Ex-Lord Chancellor Maugham in a letter to the London *Times* of July 25, 1952. "The Nürnberg Tribunal," declared Lord Maugham, "never purported to lay down 'principles' for all mankind."

Perhaps it was always an unreasonable hope that the British Air Ministry's "Splendid Decision" of May 11, 1940, would result in the establishment of any principles. The eighteen Whitley bombers which left England on that memorable spring night, in what now seems the remote past, did not set forth to establish principles. The bombs which they dropped in the darkness on the countryside of Westphalia may, indeed, by chance have hit railway installations. After the general devastation which followed during the next five years it would probably be impossible now to discover whether they left any ruins behind them when they returned on the next morning to their bases. Perhaps the question is not worth investigation. Probably it is best to regard this historic air raid as a symbolic

act, unconnected with corpses or *débris*, which left behind it in ruins nothing more substantial than the principles of civilized warfare that had been established in Europe for over two hundred years. Similarly, the war-trials which were the outcome of that perhaps equally splendid decision taken at the Teheran Conference in 1943, did not, as we are now informed, lead to the establishment of any new principles of justice. Perhaps some day it may become generally agreed that, without establishing any new principles of justice, the war-trials actually left in ruins the principles of justice which had been accepted without question by all civilized peoples for many centuries.

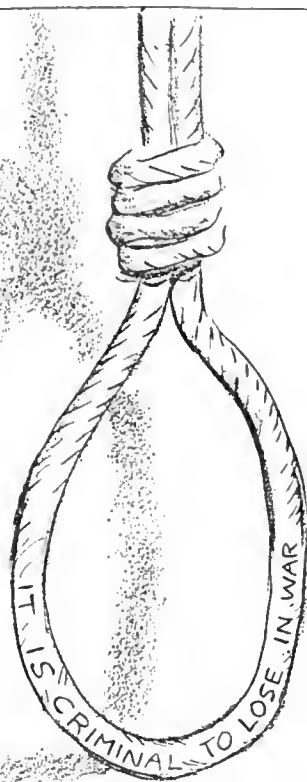
One assertion can at least be made with absolute confidence concerning both of these splendid decisions. Although neither led to the establishment of any new principles of humanity or justice, each created a precedent. We may be sure that both precedents will be followed faithfully whenever it may seem expedient to those possessing the power to follow them. It remains to be seen, however, which of these precedents will provide the more solid ground for regret.

The conclusion to which all the material in this book inevitably brings us is that warfare must be brought to an end with as little delay as possible or its continuance will put an end to all orderly civilization. Indiscriminate bombing inextricably linked warfare with barbaric military practices and ghastly mortality. All this would be intensified by the extensive use of guided missiles in later wars. The war-crimes trials at Nürnberg, Tokyo and elsewhere linked postwar procedures with juristic barbarism and made mandatory the utilization of the most savage methods in warfare in order to avert defeat and judicial lynching. These two main barbaric trends since 1939, joined with atomic and all allied electronic warfare, compel mankind either to take drastic steps to terminate world wars or to resign itself to the extinction of the race. As the distinguished atomic scientist, Dr. J. Robert Oppenheimer, has recently said:

The advent of the atom probably means that anything like the total wars of this century, where you use all the available means to bring about total destruction of the enemy, would be suicide for all the parts of civilization involved. Therefore, the way to view the atom is that we must strive to keep such wars from occurring.

EPILOGUE

FASHION NOTE



During the latter part of the Twentieth Century, the prevailing mode in post-war "neckties" will be durable hemp or nylon. They will be de rigueur among losing leaders.

Geo. B. Sullivan

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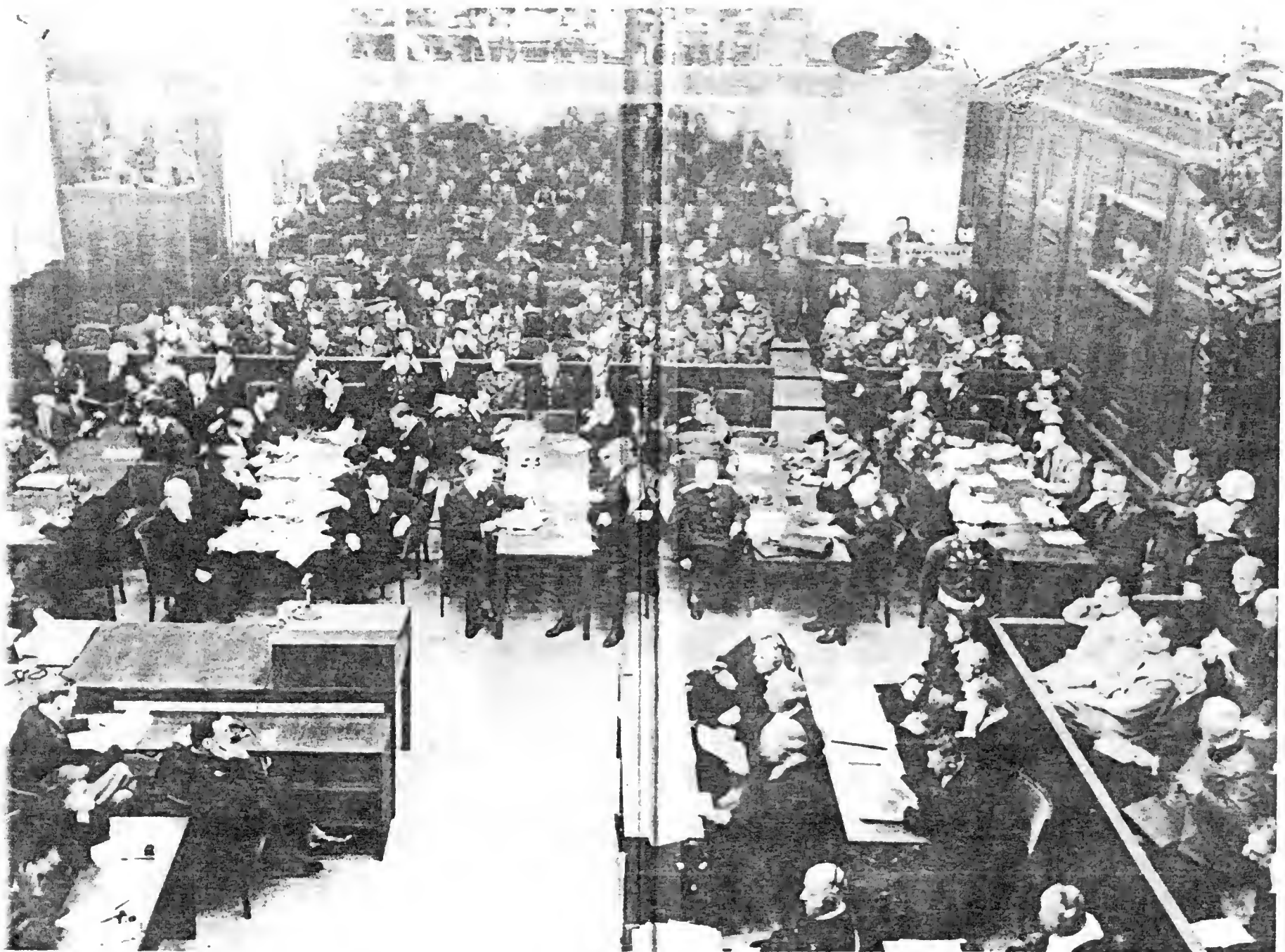
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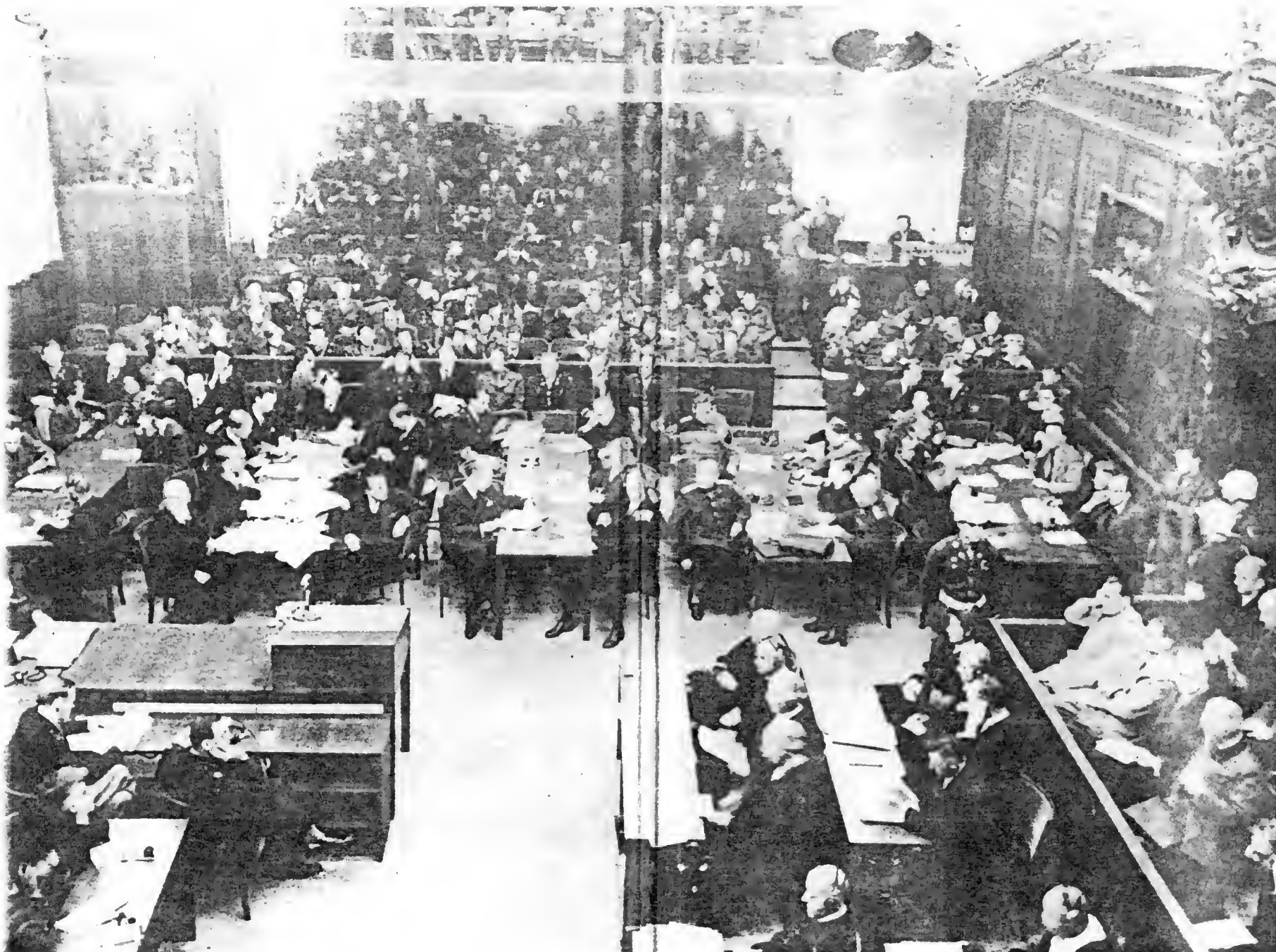
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-Wide World Photos.

General View of Nürnberg court room. Defendants in dock are shown in lower righthand corner.



-Wide World Photos.

General View of Nürnberg court room. Defendants in dock are shown in lower righthand corner.